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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the United Nations High Commissioner for Human Rights on the rights of indigenous peoples

Summary

The present report is submitted pursuant to resolution 24/10 of the Human Rights Council. It contains information on relevant developments with regard to human rights bodies and mechanisms, and outlines the activities undertaken by the Office of the High Commissioner for Human Rights, at headquarters and in the field, that contribute to the promotion and the full application of the provisions of the United Nations Declaration of the Rights of Indigenous Peoples and to the follow-up on the effectiveness of the Declaration. The report covers the period from May 2013 and April 2014.

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I. Introduction

1. In its resolution 24/10 concerning human rights and indigenous peoples, adopted on 23 September 2013, the Human Rights Council requested the High Commissioner for Human Rights to continue to submit to the Human Rights Council an annual report on the rights of indigenous peoples containing information on relevant developments in human rights bodies and mechanisms and activities undertaken by the Office of the High Commissioner at Headquarters and in the field, that contribute to the promotion of, respect for and the full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.

2. The present report focuses on some illustrative examples of the activities and initiatives undertaken by the Office of the United Nations High Commissioner for Human Rights (OHCHR) at headquarters and in the field that contribute to the full application of the rights of indigenous peoples. These examples are not intended as an exhaustive overview of the work of OHCHR with regard to the rights of indigenous peoples, but rather as an illustration of the action taken at country, regional and headquarters levels. The report also provides an overview of the recent developments within United Nations human rights mechanisms insofar as their work pertains to indigenous peoples.

II. Activities of the Office of the United Nations High Commissioner for Human Rights

3. During the period under review, the Office of the High Commissioner for Human Rights continued to work for the promotion and the full application of the Declaration on the Rights of Indigenous Peoples. The rights of indigenous peoples continued to be a priority issue for the High Commissioner and the challenges faced by indigenous peoples figure prominently in the OHCHR Management Plan for 2014-2017, including in connection with the thematic priorities of enhancing equality and combating discrimination.

4. The High Commissioner regularly highlighted the concerns of indigenous peoples in her country visits, statements and other work, often with particular focus on indigenous women. OHCHR played an active role in efforts aimed at raising the profile of indigenous peoples in the context of the Human Rights Council, including through its support to the Expert Mechanism on the Rights of Indigenous Peoples and by organizing, during the twenty-fourth session of the Human Rights Council in September 2013, a panel on indigenous peoples' issues, devoted to the World Conference on Indigenous Peoples.

5. OHCHR also continued to play an active role in various inter-agency initiatives, including the Inter-Agency Support Group on Indigenous Issues (IASG), which OHCHR will chair as from June 2014. The annual IASG meeting, held at the Headquarters of the United Nations Children's Fund (UNICEF), New York, from 22 to 23 October 2013, welcomed 35 participants from 15 agencies to discuss, among other matters, key issues in preparation for the World Conference on Indigenous Peoples and the milestones for the formulation of the post-2015 development agenda and sustainable development goals. The meeting also provided the opportunity to review and revise the IASG terms of reference and to discuss a collaborative approach for addressing the recommendations arising from the Permanent Forum on Indigenous Issues. OHCHR also coordinated the work of the United Nations Network on Racial Discrimination and Protection of Minorities to develop an action plan to implement the Secretary General's Guidance Note on the topic. The action plan highlights the importance of United Nations engagement with indigenous peoples' issues.

A. United Nations Indigenous Peoples' Partnership

6. OHCHR continued to strengthen its engagement in joint activities to promote the rights of indigenous peoples at the country level. In particular, the integration of indigenous peoples' rights into the work of the United Nations through the United Nations Indigenous Peoples' Partnership (UNIPP), a joint initiative between OHCHR, the International Labour Office (ILO), UNICEF, The United Nations Development Assistance Framework (UNDAF) and the United Nations Development Programme (UNDP).

7. Since May 2011, UNIPP has initiated joint programmes in Bolivia, Cameroon, Central African Republic, Nepal, Nicaragua and Republic of Congo, as well as one regional project in Southeast Asia. Those programmes have brought United Nations partners together in a coherent manner, guided by the principles set forth in the Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries. UNIPP has also contributed to capacity-building as well as to the establishment of inclusive dialogue and consultative mechanisms between governments and indigenous peoples.

8. The latest UNIPP publication, *UNIPP Success Stories: cooperating to promote and protect indigenous peoples' rights*, provides an insight into UNIPP's work and illustrates the Partnership's accomplishments since its inception. Its achievements include the production of 13 studies on thematic issues relevant to indigenous peoples, capacity-building of more than 5,500 key actors and facilitation of dialogue and consultative meetings on the implementation of the recommendations of the Special Rapporteur on the rights of indigenous peoples and of the Universal Periodic Review (UPR).

9. As the lead agency for several projects in the field, OHCHR supported the development of national legislation to protect the rights of indigenous peoples and continued to provide technical advice and expertise to governmental entities. For example, in Nepal, OHCHR, in partnership with the Office of the Resident Coordinator and ILO-Nepal, conducted a training workshop for civil society to discuss the rights of indigenous peoples and the importance of mechanisms to facilitate the participation of indigenous peoples in decision-making processes. The workshop contributed to enhancing dialogue with the Ministry of Federal Affairs and Local Development and its affiliated body, the National Foundation for Development of Indigenous Nationalities, and benefited from the participation of the National Human Rights Commission.

10. In June 2013, in the context of legislative developments concerning the land law reform process, OHCHR briefed members of Parliament in Cameroon with a view to ensuring that the standards contained in the Declaration on the Rights of Indigenous Peoples were taken into account. In July 2013, in collaboration with UNICEF, UNDP and the United Nations Population Fund (UNFPA), OHCHR organized a training session for indigenous peoples in the Republic of Congo to promote the implementation of the national law on the rights of indigenous populations and the completion of its implementing decrees.

B. Capacity-building and technical cooperation

1. Indigenous Fellowship Programme

11. Through the Indigenous Fellowship Programme, an annual programme which provides intensive training in human rights to indigenous people, OHCHR continued to build the capacity and expertise of indigenous men and women, to enable them to use international

human rights instruments and mechanisms more effectively. A total of 26 indigenous fellows[1] participated in the training programme in Geneva in 17 June to 12 July 2013. The fellows received theoretical and practical training on how to use international human rights instruments and mechanisms to promote and protect the rights of their indigenous communities.

12. OHCHR in Geneva also hosted a "senior" indigenous fellow for a four-month on-the-job training in its Indigenous Peoples and Minorities Section. In addition, four indigenous fellows, who were trained in Geneva, were given the opportunity to extend their knowledge through national fellowships in OHCHR field presences in the Russian Federation, Ecuador, Panama and South Africa. Their active involvement in and input to the activities of the Office were very much appreciated and their first-hand knowledge of indigenous issues was an asset in supporting the Office's programmes on indigenous peoples' issues.

2. United Nations Voluntary Fund for Indigenous Peoples

13. The United Nations Voluntary Fund for Indigenous Peoples, which is managed by OHCHR with advice from a Board of Trustees, continued to support the participation of indigenous organizations in the sessions of the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the Human Rights Council, the UPR mechanism and the treaty bodies.

14. In 2013, 66 grants were awarded for representatives of indigenous communities and organizations to participate in the sessions of the above-mentioned bodies as well as in the sessions of the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of Persons with Disabilities. The extension of the mandate of the Fund to cover the sessions of these treat bodies has enabled indigenous peoples to engage actively in bring their issues and perspectives into the work of the human rights bodies, beyond those devoted to indigenous peoples' issues. The insight and information that the Fund recipients brought to the discussions were welcomed by the members of the treaty body and others concerned.

15. The Fund organized and funded four human rights training modules in four languages, in Geneva and New York, to increase the capacity of indigenous peoples' representatives to effectively participate in the human rights mechanisms. Moreover, in cooperation with NGO partners, the Fund provided assistance to indigenous peoples' representatives in targeting their advocacy, making constructive interventions tailored to each United Nations event and contributing to the implementation of the recommendations made by human rights mechanisms and the implementation of the Declaration on the Rights of Indigenous Peoples at the national level.

16. In sessions from January to April 2014, the Board of Trustees selected 57 representatives of indigenous communities and organizations to attend the sessions of the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the Committee on the Rights of Persons with Disabilities, the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child, held from March to September 2014. Furthermore, the Board set aside a budget to enable representatives of indigenous communities and organizations – to be selected at the inter-sessional meetings held in August and November 2014 – to attend the sessions of the

[1] From Argentina, Australia, Belize, Burundi, Canada, Chile, Colombia, Costa Rica, the Democratic Republic of the Congo, Ecuador, France (French Guiana), India, Kenya, Morocco, Nepal, Niger, Peru, the Russian Federation, Suriname and Uruguay.

Human Rights Council, human rights treaty bodies and the UPR that will be held between September 2014 and March 2015.

3. Technical cooperation with State institutions, United Nations agencies and indigenous communities and organizations

17. OHCHR and its field offices carried out a range of activities on indigenous peoples' rights at the regional and country level, including monitoring, support for legal reform, technical cooperation, capacity-building and awareness-raising, including the activities described below. OHCHR field presences also consistently supported the work of special procedures mandate holders and provided support for the High Commissioner's country visits.

18. During the reporting period, OHCHR carried out a number of training and briefing sessions as part of its efforts to promote the Declaration on the Rights of Indigenous Peoples. In Nepal, for instance, OHCHR conducted a training workshop for the United Nations country team and bilateral donors with the aim of enhancing coordination and integration of the rights of indigenous peoples in policies and programmes, with particular focus on gender issues. As an outcome of the workshop, collaboration was established to work towards finalizing the National Plan of Action for the Promotion of Indigenous Peoples Rights, one of the outcomes of the UNDAF.

19. In Mexico, OHCHR engaged in capacity-building initiatives and provided technical cooperation and assistance to various authorities, NGOs and indigenous peoples on the right to free, prior and informed consultation. The Office also participated in the Technical Committee for the creation of an Indigenous Peoples Consultancy Common Protocol, organized by the National Commission for the Development of Indigenous Peoples' Rights. In Bolivia, OHCHR, in coordination with other United Nations agencies and national actors, conducted training sessions and public events on the rights of indigenous peoples to consultation.

20. OHCHR also engaged in activities aimed at policy and legislative reforms. For example, the Regional Office for Southern Africa commented on the text of South Africa's Traditional Affairs Bill, and the Regional Office for South America participated, as an observer, in the negotiations between the Government of Chile and indigenous peoples' representatives on the draft decree on indigenous peoples' right to consultation.

21. OHCHR Paraguay provided technical assistance on how to implement the decisions of the Inter-American Court for Human Rights regarding restitution of ancestral land and land claims. The Office also provided technical assistance with public conferences and high-level meetings and made concrete recommendations on the draft law on consultation with indigenous peoples that was presented by the Ombudsman. A report will be published in 2014, reflecting the discussions, conclusions and recommendations for action, including legislative and policy reforms in that area.

22. The United Nations Support Mission in Libya (UNSMIL) met regularly with representatives of the Amazigh Supreme Council, the National Tabu Gathering, the Tuareg Supreme Council as well as NGOs, human rights defenders and representatives of the General National Congress. At those meetings, UNSMIL advocated the creation of an inclusive Constitution Drafting Assembly that reflects the fair representation of all communities and provided advice and training on international human rights law with a view to its application to all communities, without discrimination.

23. During the reporting period, OHCHR deployed staff to the Philippines in the context of its humanitarian response to Typhoon Haiyan that struck a number of islands in November 2013 with devastating consequences. The Office contributed significantly to the advocacy of non-discrimination in humanitarian aid delivery to indigenous peoples.

24. OHCHR Colombia, in collaboration with the Attorney General's Office, the Presidential Programme for the protection of indigenous peoples' rights and the General Controller's Office, organized training and awareness-raising events on indigenous peoples' rights and their right to consultation and to free, prior and informed consent. Those efforts contributed to the Government acceptance of specific protocols on prior consultation. The Ministry of the Interior also engaged with OHCHR in developing practical exercises of prior consultation in accordance to international human rights standards. OHCHR Colombia and the United Nations Resident Coordinator are acting as guarantors of an agreement between the National Indigenous Organization of Colombia (ONIC) and the Government on a number of issues relating mainly to the right to indigenous autonomy and self-government.

25. In Ecuador, OHCHR developed a training module for the police, the armed forces and the national human rights institution with the aim of promoting compliance with international standards on the collective rights of indigenous peoples and Afro-descendants. The initiative helped the Government to comply with the judgement of the Inter-American Court of Human Rights in the case of the *People of Sarayaku* v. *Ecuador*, which required the State to provide sustained trainings to the armed forces and the police on collective rights.

26. OHCHR also supported the inclusion of standards on the right to free, prior and informed consent as part of the domestic regulations to approve REDD+ projects[2] in Ecuador, a climate change mitigation strategy implemented in the context of the United Nations Framework Convention on Climate Change (UNCCC). The final guidelines, which have been approved by Ministerial Decree, pay due attention to constitutional and international human rights standards. The Ministry of Environment is currently undertaking a consultation process on the draft regulation.

4. Strengthening the use of international human rights bodies and mechanisms

27. In Cameroon, OHCHR implemented national workshops for government officials, civil society organizations and United Nations agencies on the follow-up and evaluation of the implementation of the concluding observations of treaty bodies and the recommendations of special procedures with regard to indigenous peoples' rights. In Chile, OHCHR also conducted training sessions for indigenous peoples' representatives on human rights standards and mechanisms that indigenous peoples can evoke to claim their rights.

28. OHCHR Kenya supported the Government in developing and adopting a road map for implementing the recommendations made during the UPR concerning indigenous peoples. The road map proposes designing and prioritizing affirmative measures; developing programmes aimed at implementing a decision of the African Commission on Human and Peoples' Rights; holding consultative meetings on the implementation of the recommendations of the Special Rapporteur on the rights of indigenous peoples and the ratification of ILO Convention No. 169.

29. In Panama, OHCHR assisted the electoral tribunal on the implementation of the UPR recommendations to fulfil the right of Ngobe indigenous children to registration at birth. In Nicaragua, the Regional Office for Central America provided assistance to indigenous peoples to establish a space for dialogue between the indigenous authorities and the Government, further to a UPR recommendation. Following up on a recommendation made by the Special Rapporteur on the rights of indigenous peoples (E/CN.4/2004/80/Add.2), OHCHR Mexico provided technical advice in view of the reform of the legislation on military jurisdiction, which was passed by the National Congress in April 2014.

[2] REDD + is a new community-based partnership programme launched by the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN-REDD Programme).

30. OHCHR field presences also supported civil society organizations working on indigenous peoples' rights to engage with the human rights mechanisms. For instance, in Kenya the Office assisted organizations in preparing the shadow report of the African Commission and the parallel report to the Committee on Economic, Social and Cultural Rights. In Belize, OHCHR provided technical assistance to indigenous peoples' organizations on how to engage with the human rights mechanisms.

31. OHCHR Guatemala provided technical assistance to indigenous organizations on indigenous peoples' rights and access to regional human rights mechanisms, including with preparing a petition to submit to the Inter-American Commission on Human Rights regarding the lack of consultation of indigenous peoples, in general, and with the case of the Entre Ríos hydroelectric project. The Office also facilitated dialogue for civil society organizations, including indigenous organizations, to prepare the alternative report for submission to the Committee on Economic, Social and Cultural Rights and provided assistance to the Ministry of Foreign Affairs with disseminating the recommendations of the Committee on the Elimination of Racial Discrimination.

32. OHCHR Bolivia, in coordination with ILO, provided assistance and support to the Guarani Indigenous Peoples University of Bolivia and Lowland "Apiaguaiki Tupa" (UNIBOL) for a new course on the "rights of indigenous peoples in the universal system of human rights and introduction to cultural expertise". The first module was delivered in March 2014 and focused on gender, multiculturalism and collective rights of indigenous peoples.

C. Tools and guidance

33. In 2013, OHCHR published Fact sheet No. 9/Rev.2, entitled *Indigenous Peoples and the United Nations Human Rights System*, which contains a summary of indigenous peoples' rights, an overview of international and regional human rights bodies and mechanisms relating to indigenous peoples as well as a description of the activities of OHCHR and other United Nations agencies engaged in indigenous peoples' issues. The publication is currently available in English, Russian and Spanish.[3]

34. OHCHR continued to develop its close engagement with national human rights institutions (NHRIs) on indigenous issues. Through wide-ranging consultations, OHCHR and the Asia Pacific Forum of National Human Rights Institutions (APF) completed the manual, *The United Nations Declaration on the Rights of Indigenous Peoples: A Manual for National Human Rights Institutions*, in 2013. Intended to strengthen NHRI engagement in and initiatives focusing on the human rights of indigenous peoples, the manual gives the background and context of the Declaration and addresses measures that NHRIs can take at the national and international levels to protect and promote indigenous peoples' rights. The manual also contains examples of good practices from different NHRIs to illustrate effective ways of implementing the Declaration, building on such practices as the national inquiry into the land rights of indigenous peoples by the National Human Rights Commission of Malaysia (SUHAKAM), the report of which was published in 2013.

35. International human rights mechanisms and national Governments in South America have started invoking the Guidelines for the protection of indigenous peoples in voluntary isolation and initial contact in the Amazon Basin, El Gran Chaco and the Eastern Region of Paraguay[4], issued by OHCHR in May 2012. For example, in 2013, in examining the

[3] Also available from http://www.ohchr.org/Documents/Publications/fs9Rev.2.pdf

[4] See ACNUDH, en cooperación con la AECID, Directrices de protección para los pueblos indígenas en aislamiento y en contacto inicial de la región Amazónica, el Gran Chaco y la Región Oriental de

application of ILO Convention No. 169, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), requested Paraguay to provide information on the effect given to the guidelines. In September 2013, CERD examined the periodic report of Venezuela and urged the State to increase the protection afforded to indigenous peoples living in the Amazon and to take into account the aforementioned guidelines (CERD/C/VEN/CO/19-21). The guidelines have also been used as a reference to address the situation of conflict-affected indigenous peoples living in isolation in Ecuador.

36. OHCHR is working on guidance for its field presences on consultation with indigenous peoples, which is aimed at providing legal and operational guidance to OHCHR staff on promoting and implementing indigenous peoples' rights to consultation, particularly at the country level. In May 2013, the Office organized a regional seminar in Peru to share and discuss the content of the planned guidance with OHCHR field presences, indigenous representatives and other relevant United Nations agencies. Representatives from the Minister of Culture of Peru and the Office of the Ombudsman also participated in the seminar.

D. Selected areas of focus

1. Indigenous women's rights

37. OHCHR continued to work on promoting indigenous women's rights through, inter alia, training and capacity-building for indigenous women, strengthening indigenous women's networks, facilitating dialogue among stakeholders, advocating for the integration of a gender perspective in national processes relating to indigenous peoples and launching public campaigns with emphasis on racial and ethnic discrimination against women. For example, OHCHR Regional Office for South America continued to advocate for the inclusion of indigenous women in the negotiations between Government of Chile and indigenous peoples on a proposal to amend current legislation on consultation and participation of indigenous peoples in decision-making processes with a view to aligning it with international standards.

38. OHCHR Regional Office for Central America continued to work on promoting indigenous women's rights by facilitating spaces for dialogue between indigenous women and governmental institutions. As a result, several agreements were reached between indigenous women and public institutions, including commitments by the Ministry of Labour to facilitate access to employment for indigenous peoples, the electoral tribunal to take concrete action to fulfil indigenous peoples' right to registration at birth and other public institutions to develop training programmes for indigenous women. The Office also developed training and audio-visual materials to promote the Declaration on the Rights of Indigenous Peoples among indigenous women.

39. In October 2013, OHCHR participated in the World Conference of Indigenous Women, organized by indigenous organizations in Lima, Peru. At that conference, OHCHR facilitated the session on the implementation of the rights of indigenous peoples in the United Nations system. The outcome document of the conference contains proposals aimed at ensuring that the rights of indigenous women, youth and children are taken into consideration in upcoming processes, such as the World Conference on Indigenous Peoples and the post-2015 development agenda. In January 2014, OHCHR contributed to the Permanent Forum on Indigenous Issues Expert Group meeting on sexual health and reproductive rights, which considered ways to address the sexual health and reproductive rights of indigenous peoples.

Paraguay: resultado de las consultas realizadas por ACNUDH en la región de Bolivia, Brasil, Colombia, Ecuador, Paraguay, Perú y Venezuala (Ginebra, mayo 2012).

2. Land and development projects

40. OHCHR carried out several activities as part of its efforts to facilitate dialogue between indigenous peoples and Governments on issues concerning land, territories and resources. For instance, in Costa Rica, OHCHR continued to follow up on the implementation of the recommendations of the Special Rapporteur on the rights of indigenous peoples affected by the El Diquís hydroelectric project. The Office also provided technical assistance for the dialogue between the Government and leaders of indigenous communities affected by the project. OHCHR organized a workshop with the Federal Ombudsman of the Russian Federation in Khanti-Mansiysk, Siberia, to explore the role of international standards, norms and mechanisms with regard to business engagement with indigenous peoples.

41. At the request of the Government of Panama, OHCHR Regional Office and the United Nations Resident Coordinator facilitated negotiations with the indigenous peoples affected by a legislative proposal to regulate mining and hydroelectric development in indigenous territories. The role of the Office was crucial in creating an atmosphere of mutual trust, which allowed for constructive dialogue among the different actors and resulted in a text that was subsequently approved by Parliament. In addition, the Regional Office for Central America is currently coordinating a joint initiative with ILO to engage the private sector and Government in the promotion of indigenous peoples' rights.

42. OHCHR Guatemala conducted a human rights training programme for the Ministry of Environment and Natural Resources and the Ministry of Energy and Mines. The objective of the programme was to strengthen the capacities of key government officials and raise awareness about how indigenous peoples may be adversely impacted by resource development projects taking place in or near their traditional territories. Particular attention was given to the issue of consultation with indigenous peoples prior to the approval of such projects. The programme identified key areas to be improved and led to the preparation of an institutional evaluation report. The Office also participated as an observer in negotiations in conflicts relating to land and economic development and to jointly revise internal regulations.

43. In the Philippines, OHCHR and the Office for the Coordination of Humanitarian Affairs (OCHA) carried out a joint mission to Tapay Municipality, Capiz Province, in order to, inter alia, look into land, housing and property rights issues, in general, and more specifically, the human rights impact of a proposed dam project that could destroy the ancestral lands and domains of half the indigenous peoples in the region if carried out. Recommendations were made to humanitarian actors to undertake critical and adequate interventions, including building the capacity of the National Commission on Indigenous Population, to provide meaningful and continuous assistance, such as legal advice on land titles and promotion of ancestral rights enshrined in legislation.

44. OHCHR Cambodia, in collaboration with the Ministry of Rural Development, the Ministry of Interior, ILO and other development partners, continued to monitor efforts throughout the country for indigenous peoples to organize and be recognized as legal entities and to apply as a community for collective land titles. OHCHR Cambodia provided ongoing technical and financial support, including for registration and application for communal titles, to indigenous communities in various provinces of the country. In April 2014, OHCHR Cambodia co-organized a National Reflection Workshop on Indigenous Communal Land Titling. The escalation of land problems faced by indigenous communities made this workshop most urgent.

45. OHCHR Cambodia is currently supporting to three indigenous communities engaged in a long-running land dispute with two companies that were granted land concessions in the area. Since January 2014, the communities have been working to protect their land from further bulldozing of community farms, cattle fields and natural forests by sleeping in tents on the disputed land. OHCHR provided support to facilitate the filing of a legal complaint with the

provincial court in an attempt to protect the collective rights to land and use of natural resources.

46. OHCHR also contributed to awareness-raising and capacity-building in the area of business and human rights. OHCHR Cambodia targeted civil society organizations, Government, community leaders and business actors to support their increased understanding of the Guiding Principles on Business and Human Rights, and their application in the Cambodian context, and assisted with the development of a picture book on business and human rights for indigenous communities, focusing on adequate consultation and compensation.

3. Indigenous human rights defenders

47. During the reporting period, OHCHR field presences documented a number of cases relating to indigenous human rights defenders, by reporting on and following up cases in the Office's publication on the rights of human rights defenders or by providing input towards the determination of protection measures in the available national mechanisms for the protection of human rights defenders. For instance, between March 2013 and April 2014, the United Nations Joint Human Rights Office in the Democratic Republic of the Congo registered 12 human rights violations against 48 individuals from the Batwa community in several provinces of the country. The most reported types of violations during the period concerned the right to life, physical integrity and security and liberty of the person.

48. In January 2014, OHCHR Bolivia issued a public statement expressing concern about violence against a group of indigenous authorities, which occurred in the presence of the police. OHCHR Bolivia appealed to the competent national authorities to fulfil their obligations to respect and guarantee the individual and collective rights of those affected, in accordance with international commitments.

49. In August 2013, the Regional Office for South America held a meeting with family members of an indigenous leader, who had been found dead with a gunshot wound to his chest. Investigations are being carried out by the Public Prosecutor´s office. The crime, which occurred in a conflictive region of Chile, came six days after the visit by the Special Rapporteur on the promotion and protection of human rights while countering terrorism.

50. Furthermore, the Special Rapporteur on the rights of indigenous peoples (A/HRC/24/41/Add.4), the Special Rapporteur on the situation of human rights defenders (A/HRC/25/55/Add.3) and the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/HRC/23/32) also received reports of harassment, persecution, reprisals against, stigmatization and killings of indigenous human rights defenders. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance also reported on the considerable number of incidents of discriminatory practices and acts of racial violence committed against indigenous peoples and the low level of prosecution and sanctions in such cases (A/HRC/23/56/Add.1).

4. Access to justice

51. OHCHR further strengthened its thematic work on indigenous peoples' access to justice, for example, by supporting strategic litigation at the country level. OHCHR Guatemala implemented a technical training programme on strategic litigation in human rights for indigenous peoples, including indigenous women, for indigenous peoples' organizations and authorities, teachers and university students (mostly indigenous), which includes advice and support to organizations in the implementation of their legal claims. OHCHR also provided technical assistance to the Support Network on Strategic Litigation for indigenous organizations working on cases of indigenous peoples' rights, including on indigenous women's rights.

52. In February 2014, in its role as secretariat of the Expert Mechanism on the Rights of Indigenous Peoples, and in cooperation with the Faculty of Law, University of Auckland, New Zealand, OHCHR organized an expert seminar, in Auckland, on restorative justice, indigenous juridical systems and access to justice for indigenous women, children and youth and persons with disabilities. The main objective of the seminar was to obtain additional substantive input to the Expert Mechanism's study on access to justice in the promotion and protection of the rights of indigenous peoples, to be discussed at the seventh session of the Expert Mechanism in July 2014. Further to a request from the Human Rights Council, the Expert Mechanism also prepared a study on the promotion and protection of the rights of indigenous peoples in disaster risk reduction initiatives, also to be discussed at its seventh session.

5. National human rights institutions

53. The work of the Office with national human rights institutions (NHRIs) was also instrumental in promoting the Declaration on the Rights of Indigenous Peoples. For instance, OHCHR Colombia provided technical support to the human rights commission in drafting a national proposal for the protection of the human rights of Black, Afro-Colombian, Palenquero and Raizal communities, in accordance with international standards. The proposed guidelines were presented in the plenary session of the Congress and incorporated into its final conclusions.

54. During the reporting period, the Regional Office for Central America, in collaboration with the NHRI (*Defensoria del Pueblo*) in Panama, drafted a protocol to address cases of racial discrimination against indigenous peoples and afro-descendants. In 2014, the Regional Office will conduct a survey to evaluate the progress made by the NHRIs in El Salvador, Nicaragua and Panama in strengthening their interventions in cases of discrimination against indigenous peoples and afro-descendants.

55. In response to the request from the NHRI in Panama, OHCHR is developing a protocol to address violations of indigenous peoples' rights. The protocol will provide the officers of the NHRI with an enhanced understanding of indigenous peoples' rights and enable them to identify violations and apply the relevant international standards. In November 2013, the Regional Office in Eastern Africa organized a training session in Kampala, Uganda, on strengthening the protection mandate of NHRIs, including in relation to indigenous peoples. Representatives of the NHRIs in Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan,, Uganda, and the United Republic of Tanzania participated in the training.

6. Post-2015 development agenda

56. OHCHR engagement has been instrumental in ensuring the high visibility of human rights in the discussions on the post-2015 agenda. The Office advocates that marginalized, disempowered and excluded groups, previously locked out of development, including women, minorities, indigenous peoples, migrants, older persons, disabled persons and the poor, must have a place in the new agenda.

57. In 2013, OHCHR published the report *Who will be accountable? Human Rights and the Post-2015 Development Agenda*, in which the importance and impact of advocacy on human rights, including on equality and non-discrimination, is emphasized. OHCHR's current focus is on ensuring that human rights, including the standards of equality and non-discrimination, underpin the new agenda, which will require additional targets and indicators to better reflect indigenous peoples' perspectives on development.

58. OHCHR contributed to the national consultations on the post-2015 development agenda. Since Guatemala was selected as a pilot country for national consultations on the post-2015 development agenda, OHCHR Guatemala and the United Nations country team worked to ensure that indigenous peoples were included in the consultations and that the resulting

report reflected their views. To that end, OHCHR Guatemala organized seminars for indigenous organizations and indigenous women, with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), respectively. The seminars enabled reflection on the current Millennium Development Goals framework and the results obtained so far.

7. World Conference on Indigenous Peoples

59. In its resolution 65/198, the General Assembly decided to organize a high-level plenary meeting of the General Assembly, to be known as the World Conference on Indigenous Peoples, to be held in 2014. The General Assembly also decided that the World Conference shall result in a concise, action-oriented outcome document, which should contribute to the realization of the rights of indigenous peoples, pursue the objectives of the Declaration on the Rights of Indigenous Peoples and promote the achievement of all internationally agreed development goals (General Assembly resolution 66/296).

60. Further to those resolutions, indigenous peoples worldwide engaged in the process and organized regional and thematic caucus preparatory meetings. Moreover, in June 2013, the Sami Parliament of Norway organized a global indigenous preparatory meeting for the World Conference, in Alta, Norway.

61. The forthcoming Conference has the potential to raise the profile and impact of the United Nation's work on indigenous peoples. OHCHR consistently highlights the importance of indigenous participation in its exchanges with various key interlocutors, and emphasizes the need to make sure that the Conference is organized not only on, but also with, indigenous peoples.

62. During the twenty-fourth session of the Human Rights Council, OHCHR organized a panel on indigenous peoples' issues, which was devoted to the forthcoming World Conference. The panel participants discussed specific human rights issues of central concern to indigenous peoples, with a view to ensuring that human rights are firmly integrated not only in the World Conference, but in the preparatory and follow-up processes as well. The panel also considered ways and means to enhance synergies between States, indigenous peoples, the United Nations system and other relevant actors in view of the action-oriented results of the World Conference, in order to encourage concrete measures to improve the implementation of the Declaration on the Rights of Indigenous Peoples.

63. In addition to calling for an inclusive process and integration of human rights standards in the Conference, OHCHR, through the United Nations Voluntary Fund for Indigenous Peoples, is playing a direct role in supporting indigenous peoples' participation in the Conference. The General Assembly has expanded the mandate of the Fund to include support for indigenous peoples to participate in the World Conference and its preparatory process (resolution 66/296). The Fund will support the participation of 21 indigenous representatives to the interactive hearing as part of the preparations for the Conference and 84 indigenous representatives to the World Conference.

64. OHCHR field presences have also been actively engaged in the preparations for the Conference. For instance, the Regional Office for Central America is contributing to the regional study on the situation of indigenous peoples that is being conducted by the United Nations Economic Commission for Latin America and the Caribbean on the occasion of the World Conference on Indigenous Peoples, further to the recommendation of the United Nations Permanent Forum on Indigenous Issues.

65. The Regional Office for Southern Africa contributed information for a review of United Nations efforts for the realization of indigenous peoples' rights in Namibia since 2009, which is intended as an information paper for the World Conference in the context of sharing

perspectives and best practices on the realization of the rights of indigenous peoples, including pursuit of the objectives of the United Nations Declaration on the Rights of Indigenous Peoples. OHCHR Paraguay organized several activities in the context of the World Conference, including sessions with indigenous leaders, both men and women, of 26 indigenous peoples' organizations, and a meeting with leaders of indigenous peoples' organizations, during which proposals on prior consultation and the formulation of public policies were discussed.

66. In 2013, OHCHR Guatemala facilitated workshops aimed at assessing the level of implementation of the Declaration on the Rights of Indigenous Peoples. The workshops focused in particular on indigenous peoples' participation, consultation, land and territories, spirituality and access to justice. The workshops served to enhance knowledge of international human rights standards and the capacity of indigenous communities to monitor compliance with indigenous peoples' rights. In March 2014, the Government of Guatemala published an action plan and methodology with a view to preparing the State for the World Conference on Indigenous Peoples. The action plan proposes the use of the evaluation report on the implementation of the Declaration as an input document for the working sessions.

67. The Regional Office for South America delivered a one-day training session on indigenous peoples' rights to indigenous peoples' representatives, as part of the inter-agency project on indigenous peoples' rights. The office gave a presentation on the World Conference, which was followed by a discussion by the indigenous representatives on the main human rights issues they faced in their region.

III. Human rights bodies and mechanisms

A. Expert Mechanism on the Rights of Indigenous Peoples

68. The Expert Mechanism on the Rights of Indigenous Peoples held its sixth session in July 2013, during which it discussed the preparations for the World Conference on Indigenous Peoples and the Declaration on the Rights of Indigenous Peoples, and held an interactive dialogue with a representative from the Permanent Forum on Indigenous Issues and the Special Rapporteur on the rights of indigenous peoples. The Expert Mechanism also finalized and adopted the report of its study on access to justice in the promotion and protection of the rights of indigenous peoples, to which its advice No. 5 on the same topic is annexed. The study, together with a number of proposals made by the Expert Mechanism, was presented to the Human Rights Council at its twenty-fourth session in September 2013.

69. During the reporting period, the Expert Mechanism undertook a number of inter-sessional activities, including participation in preparatory meetings for the World Conference and the twelfth session of the United Nations Permanent Forum on Indigenous Issues. The Expert Mechanism also briefed a number of the human rights treaty bodies on its work, and especially its studies, relating to the rights of indigenous peoples.

70. Throughout the year, OHCHR provided support to the members of the Expert Mechanism in their engagement in activities relating to their work, including participation in the Forum on Business and Human Rights, the Permanent Forum on Indigenous Issues Expert Group meeting on sexual health and reproductive rights, the International Parliamentary Conference on Parliaments and the Rights of Indigenous Peoples, the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action and preparatory meetings relating to the organization of the World Conference. Through those interventions, the Expert Mechanism contributed to enhancing the visibility of indigenous peoples' rights, in particular their right to participate in decision-making.

B. Special procedures

71. The activities of the Special Rapporteur on the rights of indigenous peoples were focused on four interrelated areas: promoting good practices, country reports, cases of alleged human rights violations and thematic studies. Within each of these areas, the Special Rapporteur built upon the established methods of work generally employed by Human Rights Council special procedures and also developed new ones, especially in relation to the promotion of good practices and addressing allegations of human rights violations through the communications procedure.

72. With respect to the promotion of good practices, the Special Rapporteur continued to provide technical assistance to Governments in their efforts to develop laws and policies relating to indigenous peoples. Most often, the technical assistance dealt with the development of procedures for the duty to consult with indigenous peoples about decisions that affect them.

73. The work of the Special Rapporteur also involves investigating and reporting on the overall human rights situation of indigenous peoples in selected countries. The reports of country visits include conclusions and recommendations aimed at strengthening good practices, identifying areas of concern and improving the human rights situation of indigenous peoples. Over the past year, the Special Rapporteur visited and reported on the situation of indigenous peoples in Panama, Canada and Peru. Those reports will be presented to the Human Rights Council in September 2014.

74. The Special Rapporteur responded to specific cases of alleged human rights violations on a continuous basis. Over the past year, the Special Rapporteur took action with regard to some 50 cases, including concerning the following countries: Argentina, Bangladesh, Bolivia (Plurinational State of), Brazil, Cameroon, Canada, Chile, Colombia, Costa Rica, Ecuador, Ethiopia, France, Guatemala, Honduras, Israel, Kenya, Papua New Guinea, Peru, the Philippines, the Russian Federation, Suriname, the United Republic of Tanzania and the United States of America.

75. The Special Rapporteur dedicated the past three years of the mandate to the issue of extractive industries and their impact on indigenous peoples. The Special Rapporteur's final report on this issue (A/HRC/24/41)was presented to the Human Rights Council in September 2013. The Special Rapporteur participated in several meetings in order to gather perspectives on the issue from indigenous peoples, Governments, and companies. As part of the study, he launched an online forum to gather examples of specific extractive projects being carried out in or near indigenous peoples' territories. In his final report to the General Assembly (A/68/317), presented in October 2013, the Special Rapporteur gave an overview of the activities he had carried out throughout his tenure and offered comments on the Declaration on the Rights of Indigenous Peoples.

76. During the reporting period, other special procedure mandate holders also addressed the situation of indigenous peoples within their respective mandates. For example, the Special Rapporteur in the field of cultural rights emphasized the right of indigenous peoples to be informed and consulted prior to the adoption of new legislation affecting the enjoyment of their cultural rights (A/HRC/23/34/Add.1). The Special Rapporteur on the human right to safe drinking water and sanitation noted that the lack of citizenship of indigenous peoples was a barrier to their access to water and sanitation as well to other basic services like health care and education (A/HRC/24/44/Add.3).

77. In the context of a country visit, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context highlighted the precarious situation of indigenous peoples living in urban settlements (A/HRC/25/54/Add.1). On one country visit, the Special Rapporteur on the right to food learned about the problems that indigenous peoples faced in their access to traditional

sources of livelihood as a result of encroachment on their lands and the degradation of ecosystems caused by development projects, logging and the expansion of palm oil plantations (A/HRC/25/57/Add.2).

78. The Special Rapporteur on extreme poverty and human rights, in her report on the right to participation of people living in poverty (A/HRC/23/36), called for a human rights-based approach to participation and presented a human rights-based framework for including people living in poverty in the design, implementation and evaluation of policies and programmes in a meaningful and effective way, taking into account the obstacles they face. The framework proposed drew heavily on ILO Convention No. 169 and the Declaration on the Rights of Indigenous Peoples, which both advocate consultation with and participation of indigenous peoples in decision-making processes.

79. In its first thematic report (A/HRC/23/50), the Working Group on the issue of discrimination against women in law and in practice noted that indigenous women and girls, among other marginalized groups, faced discriminatory practices in several areas, in particular in the implementation of laws on nationality and citizenship, which limit access to formal registration of births, marriage, residence and other citizenship documents as well as to relevant information on their rights as citizens.

80. The report of the Working Group on the issue of human rights and transnational corporations and other business enterprises to the General Assembly (A/68/279) explored the challenges faced in addressing the adverse impacts of business-related activities on the rights of indigenous peoples through the lens of the United Nations Guiding Principles on Business and Human Rights. The Working Group focused on how the guiding principles could bring clarity to the roles and responsibilities of States, business enterprises and indigenous peoples in addressing those impacts. The Working Group made recommendations to States, business enterprises and indigenous peoples for the effective operationalization of the guiding principles with regard to the rights of indigenous peoples.

C. Treaty bodies

81. The Committee on the Elimination of Racial Discrimination continued to pay particular attention to the situation of indigenous peoples in its early warning and urgent action procedures and its consideration of reports of State parties. It highlighted indigenous peoples' issues in its concluding observations on Chile, Honduras, Sweden and Venezuela (Bolivarian Republic of). In particular, the Committee emphasized the importance of providing resources to revive indigenous languages and to ensure respect for, and recognition of, the traditional systems of justice of indigenous peoples, in conformity with international human rights law.

82. During the period under review, the Human Rights Committee addressed the situation of indigenous peoples in its concluding observations on Bolivia (Plurinational State of), Finland, Nepal, Ukraine, Uruguay and the United States of America. The Committee was concerned about the lack of indigenous peoples' participation and decision-making powers in matters of fundamental importance to their culture and way of life, including the rights to land and resources. The Committee recommended, inter alia, that indigenous peoples be provided with equitable access to courts and administrative bodies and that measures be adopted to protect sacred areas against desecration, contamination and destruction.

83. The Committee on Economic, Social and Cultural Rights raised concern about indigenous peoples in Denmark, Djibouti, Gabon, Japan, Norway and Rwanda. In particular, the Committee expressed concern about the absence of regulatory or legislative frameworks to enable implementation of the right to prior informed consultation of indigenous peoples in decision-making processes relating to the exploitation of natural resources in traditional territories. The Committee was further concerned about the persistence of stereotyping and

discrimination against indigenous peoples prevents them from fully enjoying, in particular, access to the labour market, adequate housing, education, health-care services and other social services.

84. The Committee on the Rights of Persons with Disabilities addressed the issues of indigenous peoples in its concluding observations on Australia, El Salvador and Paraguay, and the Committee on the Rights of the Child issued conclusions and recommendations concerning indigenous peoples in Paraguay, Republic of Congo, the Russian Federation and Rwanda. The Committee against Torture expressed concern about the situation of indigenous peoples in its concluding observations on Guatemala. The Committee on the Elimination of Discrimination against Women expressed concern about issues relating to indigenous women in its concluding observations on Cameroon, Colombia, the Democratic Republic of the Congo and Finland.

D. Universal Periodic Review

85. Indigenous peoples' issues were frequently raised in the context of the UPR in many national reports, compilations of United Nations information and summaries of stakeholders' information as well as in the recommendations made by States in the sessions held during the reporting period. For example, at the sixteenth session of the UPR Working Group from 22 April to 3 May 2013, recommendations with reference to indigenous peoples were made in respect of Bangladesh, Cameroon, Canada, Colombia and the Russian Federation; during the seventeenth session from 21 October to 1 November 2013, recommendations with reference to indigenous peoples were made in the context of the reviews of the Belize, Central Africa Republic, Malaysia, Mexico, Nigeria, and the Republic of Congo; and at the eighteenth session from 27 January to 7 February 2014, recommendations with reference to indigenous peoples were made in respect of Cambodia, Chile, New Zealand and Uruguay.

IV. Conclusion

86. **The rights of indigenous peoples remain a priority for OHCHR and, in addressing this priority, the United Nations Declaration on the Rights of Indigenous Peoples has provided a key reference and framework for action, from the establishment of the fellowship programme and other capacity-building initiatives to the provision of technical assistance and advice for enhancing the participation of indigenous peoples in decision-making at both the international and national levels.**

87. **The Office also provided support to the wide-ranging work of the special procedures mandates devoted to indigenous peoples, notably the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples. Furthermore, through the United Nations Voluntary Fund for Indigenous Peoples, the Office supported efforts to enhance the visibility of indigenous peoples' rights in the human rights mechanisms.**

88. **The forthcoming Word Conference on Indigenous Peoples and the preparation of the post-2015 development agenda require further strong engagement by OHCHR and other stakeholders involved in the protection and promotion of the rights of indigenous peoples. Effective participation of indigenous peoples in these processes is crucial to ensuring that they yield concrete results and help to address the most urgent human rights challenges that indigenous peoples in all regions continue to face.**

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present technical guidance is submitted pursuant to Human Rights Council resolution 24/11. The aim of the technical guidance is to assist States and non-State actors to improve the realization of the rights of the child by providing guidance on addressing mortality and morbidity of children under 5 years of age in accordance with human rights standards. It outlines the key elements of a human rights-based approach to reducing child mortality and morbidity, provides guidance for operationalizing such an approach, and includes an illustrative example of how it can be applied.

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I. Introduction

1. The present technical guidance is submitted to the Human Rights Council pursuant to resolution 24/11 of 26 September 2013, in which it requested the Office of the United Nations High Commissioner for Human Rights, in close collaboration with the World Health Organization (WHO), to prepare concise technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age.

2. The technical guidance was prepared by OHCHR, in close collaboration with WHO and with the support of an external advisory group of human rights and child health experts. It was also informed by input received from a public consultation and responses to a note verbale circulated to States, national human rights institutions and civil society requesting relevant information. Detailed information can be found at www.ohchr.org/EN/Issues /Children/TechnicalGuidance/Pages/TechnicalGuidanceIndex.aspx.

3. In spite of significant progress in recent years, mortality and morbidity of children under 5 remain unacceptably high. In 2012, an estimated 6.6 million children died before their fifth birthday.[1] More than half of those deaths were preventable.[2] In addition, millions more children suffer illness and disability every year. Patterns of child mortality and morbidity reveal significant and persisting inequalities between and within countries, driven by poverty, social exclusion, discrimination, gender norms and neglect of basic human rights.

4. A human rights-based approach to reducing child mortality and morbidity can help draw attention to potential barriers to successfully addressing these issues, highlight the range of actors responsible for this work and provide a legal framework to strengthen public health efforts in this area. It can also facilitate the identification of populations at high risk, enable analysis of complex gaps in protection, participation and accountability, and promote the identification of comprehensive and sustainable solutions.[3] A rights-based approach can enable children and their families to live lives of dignity.

5. A broad range of international human rights treaties are relevant to child mortality and morbidity, inter alia the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women. Furthermore, general comment No.15 of the Committee on the Rights of the Child, general comment No. 14 of the Committee on Economic, Social and Cultural Rights and general recommendation 24 of the Committee on the Elimination of Discrimination against Women are also relevant.

6. Those treaties and general comments are complemented by documents on child health published by WHO that highlight the importance of adopting a human rights-based approach to addressing child mortality and morbidity.[4] Furthermore, the centrality of a human rights-based approach to child mortality and morbidity has been recognized by a wide range of global efforts such as the United Nations Secretary-General's Global

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[1] WHO, "Children: reducing mortality", Factsheet No. 178, 2013.

[2] Ibid.

[3] A/HRC/24/60; A/HRC/22/31.

[4] F. Bustreo and others, *Women's and Children's Health: Evidence of Impact of Human Rights*, (WHO, 2013); WHO, "Every newborn: an action plan to end preventable deaths", 2014.

Strategy for Women's and Children's Health, and the Commission on Information and Accountability for Women's and Children's Health.

7. The primary purpose of the present technical guidance is to assist States and non-State actors to improve the realization of the right of the child to health and survival by providing guidance on reducing child mortality and morbidity in accordance with human rights norms, standards and principles.

8. The guidance is primarily directed towards health decision-makers and policy-makers but is also relevant to other sectors, such as the finance and education sectors, as well as to parliamentarians, the judiciary, civil society, health service providers, national human rights institutions, donor States and the private sector, as well as intergovernmental agencies.

II. Child mortality and morbidity

9. Most child mortality is due to a small number of diseases and conditions. Globally, 43 per cent of such deaths occur among babies aged 0–28 days (newborn babies)[5] and are mainly due to pre-term birth complications, birth asphyxia and trauma, and sepsis. After the first 28 days, until the age of 5 years, the majority of deaths are attributable to infectious diseases such as pneumonia (22%), diarrhoeal diseases (15%), malaria (12%) and HIV/AIDS (3%).[6] The vast majority of conditions and diseases that lead to death among children under 5 years of age are preventable and treatable through cost-effective interventions.

10. The risk factors associated with the leading causes of death in newborn babies are multiple and complex. They include complications during pregnancy and childbirth, such as bleeding, hypertension, prolonged and obstructed labour and infections, and lack of timely access to skilled care during and after birth.

11. The main risk factors associated with the leading causes of death in children aged between 1 month and 5 years include low birth weight, lack of breastfeeding, undernutrition, overcrowded conditions, indoor air pollution, unsafe drinking-water and food, lack of sanitation and poor hygiene practices. In some regions, HIV and malaria are also significant risk factors.

12. Undernutrition is estimated to be associated with 45 per cent of child deaths worldwide.[5] Undernutrition is also strongly correlated with vulnerability to infections and to delayed physical and mental development.

13. Many of the leading causes of mortality among children are also the primary causes of morbidity. Coughing, diarrhoea and fever are the commonest reasons for children to attend health services, and severe pneumonia, diarrhoea and malaria are the commonest causes of severe illness requiring hospital treatment. Other infections, disability arising from congenital malformations or pre-term birth, and nutritional deficiencies also contribute to child morbidity globally.

14. A high burden of child morbidity is attributable to violence against children, including physical, sexual and psychological violence, which exists in every country and occurs in various settings, including the family, institutions and the community.[7]

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[5] United Nations Inter-agency Group for Child Mortality Estimation., 2012.

[6] WHO, Global Health Observatory.

[7] A/61/299; A/HRC/22/31.

15. The life-course approach to health recognizes the continuum from birth through childhood, adolescence and adulthood. This approach reflects the principle that care given to children during their first five years of life, or even that given to their mothers prior to their birth, will affect their immediate well-being and will have an impact on their health and development in later years.[8]

16. A multi-faceted response, which also addresses the broader risk factors and determinants of child mortality and morbidity, is required.

17. The response must give sustained consideration to the needs of society's most disadvantaged and marginalized children and their families if improved and more equitable child health outcomes are to be achieved.[9]

III. A human rights-based approach

18. A human rights-based approach requires systematic attention to a range of human rights standards and principles. This approach is not only about achieving human rights goals and outcomes, but also about achieving them through a participatory, inclusive, non-discriminatory, transparent and responsive process.

19. A human rights-based approach to reducing child mortality and morbidity requires the identification of relevant duty-bearers and rights-holders, and building the capacity of the former to fulfil their obligations, and of the latter to claim their rights relevant to child health and survival. In this, States and State actors hold the principal obligation. In the case of young children, parents and other caregivers and health-care workers can simultaneously be considered both duty-bearers and rights-holders, who may benefit from capacity-building to fulfil their duties and claim respect for the rights of the children they represent.

20. International human rights law includes fundamental obligations by States to address under-5 mortality and morbidity as part of their work to ensure the child's right to the highest attainable standard of health and other related rights. It provides a legal framework for this work and a basis for accountability. A human rights-based approach requires systematic attention to human rights standards and principles in all aspects of policies and programmes.

21. A human rights-based approach to reducing child mortality and morbidity requires that States and other relevant stakeholders, including national human rights institutions and non-governmental organizations, take action at all levels to address the interlinked root causes of child mortality and morbidity. These root causes include poverty, malnutrition, gender inequality, harmful practices, violence, stigma, discrimination, unsafe households and environments, denial of the right to safe drinking water and sanitation, denial of the right to health, including lack of accessible, affordable and appropriate health services and medicines, late detection of childhood illnesses and denial of the right to education.

Human rights standards and principles

22. The Convention on the Rights of the Child provides a holistic framework for reducing child mortality and morbidity, emphasizing health outcomes, goods and services, and highlighting the need to tackle the underlying determinants of health.

[8] A/HRC/24/60.

[9] Ibid.

23. Article 6 of the Convention on the Rights of the Child highlights States parties' obligation to ensure the survival, growth and development of the child, including the physical, mental, moral, spiritual and social dimensions of their development. Article 24 recognizes the right of the child to the enjoyment of the highest attainable standard of health, explicitly requiring States parties to take appropriate measures to reduce infant and child mortality and to ensure the provision of necessary medical assistance and health care for all children.

24. Taking account of the indivisibility, interdependence and interrelatedness of all human rights, a human rights-based approach recognizes that fulfilment of the child's rights to health and survival depends on the realization of other related rights, including the rights to life, non-discrimination, an adequate standard of living, water and sanitation, food, education, birth registration and social security.

25. States are required to progressively realize those rights to the maximum extent of available resources and, where needed, within the framework of international cooperation.[10] While recognizing the principle of progressive realization and acknowledging constraints due to the limits of available resources, States have certain immediate obligations in relation to the right to health, such as the guarantee that the right will be exercised without discrimination of any kind and the obligation to take deliberate, concrete and targeted steps towards the full realization of this right.[11]

26. Child mortality and morbidity are also linked to women's rights and the ability of women to survive pregnancy and childbirth and to exercise autonomy over decisions relating to their reproductive lives and optimal infant feeding practices. Investment in women's health and education, and in the empowerment of the poorest and most marginalized population groups, including women, is vital to ensure an effective response to under-5 mortality.[12] The present technical guidance on a human rights-based approach to reducing preventable maternal morbidity and mortality can help guide work in this area.[13]

27. A human rights-based approach requires that States focus efforts to reduce child mortality and morbidity on marginalized children and those in under-served areas, and take all appropriate measures to ensure equality and protect children against discrimination. Discrimination, in law and in practice, is an important factor underlying much preventable child mortality and morbidity, with the most marginalized groups bearing a disproportionate burden of mortality and morbidity.[14] Discrimination is proscribed on the grounds of a child's, parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.[15] Disproportionate vulnerability and ill health of certain groups of children can also exist beyond the proscribed grounds for discrimination.[16] The collection, analysis, dissemination and use of disaggregated data is a precondition for revealing where discrimination is occurring, which groups of children are not realizing their rights to health and survival and how remedial action might be taken.

28. Human rights provide a legal imperative for participation: in order to fulfil their human rights obligations, States must ensure stakeholder participation in priority-setting, in

[10] Convention on the Rights of the Child, art. 4; CRC/C/GC/15, paras. 71-72.

[11] Convention on the Rights of the Child, art. 2; E/C.12/2000/4.

[12] A/HRC/24/60.

[13] A/HRC/21/22 and Corr .1 and 2.

[14] M. Chopra and others, "Ending of preventable deaths from pneumonia and diarrhoea: an achievable goal", in *The Lancet*, Vol. 3, Issue 9876, 27 April 2013.

[15] Convention on the Rights of the Child, art. 2.

[16] A/HRC/22/31 and Corr. l.

policy/programme design, implementation, monitoring and evaluation, and in accountability mechanisms. This includes ensuring that institutional mechanisms exist that enable people to participate; ensuring that all segments of the population, including the most marginalized, can participate; and making available functional independent accountability mechanisms in relation to participation.

29. Participation requires that States create an enabling environment for citizen engagement and develop capacity to ensure that duty-bearers can fulfil their obligations and that rights-holders have the knowledge that allows them to claim their rights. Participation should be viewed as fostering critical awareness, and decision-making as the basis for active citizenship.[17] In the case of young children, such capacity-building may be targeted towards their caregivers.

30. Participation in the context of under-5 mortality and morbidity means ensuring that children's parents, or other representatives, can access all relevant and necessary information to ensure an informed opinion about the child's health status and potential interventions, and participate meaningfully in the decision-making processes which affect their children's survival and health.

31. The best interests of the child should be assessed and taken as a primary consideration in all actions affecting children, including actions concerning their health, and should guide decisions on issues ranging from individual treatment options to policy and regulatory frameworks. This requires that States place children's interests at the centre of all decisions affecting their health and survival, including decisions on the allocation of resources and on the development and implementation of policies and interventions that affect the underlying determinants of health.

32. Ensuring accountability is at the core of actions to address under-5 mortality and morbidity. Accountability requires multiple forms of monitoring, review, oversight and redress – administrative, social, political and legal. States have the obligation to ensure that relevant government authorities and service providers are accountable for maintaining the highest possible standards of children's health and health care. This means, for instance, ensuring that health service users are able to report essential medicine stock-outs in addition to ensuring that there procedures for investigating preventable deaths. States have an obligation to ensure that functional, accessible accountability mechanisms exist such that all duty-bearers can be held to account and that both the individual and the structural nature of any children's rights violations and harm caused by discrimination in regard to children's health-related rights can be addressed.[18]

33. A human rights-based approach to health requires States to ensure the availability, accessibility, affordability, acceptability and quality of facilities, goods and services related to health, as well as to address its underlying determinants, such as poverty, poor education and lack of access to other social services.[19] A well-developed and accessible health system characterized by attention to all the principles of a human rights-based approach, through which children and caregivers have access to health information, services and commodities, is critical. Similarly, collaboration across government sectors is required to address the underlying determinants of health.

34. The State bears the primary human rights obligation in relation to child health and survival and also has an obligation to ensure that non-State actors, including individuals, do

[17] United Nations Population Fund and Harvard School of Public Health, A Human Rights-based Approach to Programming: Practical Implementation Manual and Training Materials, 2010.

[18] E/C.12/GC/20, para. 40.

[19] E/C.12/2000/4.

not jeopardize the enjoyment by any child of his or her health and human rights. Alongside its obligations to ensure children's non-discriminatory access to high-quality health and related services that are socially and culturally acceptable, the State has a crucial role to play, and is obliged under human rights law, to sensitize the population about appropriate care-seeking behaviours for child health.[20]

35. In a recent report to the Human Rights Council a number of essential steps for effectively addressing under-5 mortality using a human rights-based approach were highlighted.[21] They include: ensuring a supportive legal and policy environment; increasing access to preventive health interventions, services and life-saving drugs; expanding access to services for the integrated management of childhood illnesses at the community level and elsewhere; and establishing accessible, transparent and effective mechanisms of monitoring and accountability.

IV. Operational guidance

36. Applying a human rights-based approach to reducing child mortality and morbidity means systematically incorporating attention to all relevant rights, standards and principles into national measures aimed at improving child health and survival. This begins with an assessment of relevant legislative measures, governance and coordination mechanisms, planning, budgeting, implementation, monitoring and evaluation efforts, mechanisms for remedy and redress and international cooperation to determine the extent to which existing measures, mechanisms and processes are fully compliant with recognized human rights standards and principles and where gaps and barriers remain that must be addressed. This should build on existing efforts with additional attention to human rights standards and principles as required.

37. Rights-based efforts to reduce child mortality and morbidity should adopt a life course approach. They should be situated within a continuum of care that pays due attention to the health and rights of women before, during and after pregnancy.[22]

38. Reliable data on priority health problems, including new and neglected causes of mortality and morbidity, and key determinants of children's health, enable States and other duty-bearers to target efforts to address child mortality and morbidity. Governments and other stakeholders should collect such data through routine health information systems as well as other surveys and research, and ensure that they include quantitative, qualitative and policy data.

39. A human rights-based approach requires that those data be disaggregated by age, sex, location and other relevant categories in order to identify groups that may be marginalized or discriminated against and to direct additional efforts and resources to ensuring that any inequalities are addressed.

40. Data should be analysed, disseminated and used to inform national and subnational laws, policies, budgets, programmes and services relevant to child health and survival.

41. In the subsections below, illustrative examples are provided of State actions required under a human rights-based approach to reducing child mortality and morbidity.

[20] Convention on the Rights of the Child, art. 27.
[21] A/HRC/24/60.
[22] A/HRC/21/22 and Corr. 1 and 2.

A. Legislative measures

42. Article 4 of the Convention on the Rights of the Child stipulates the requirement for States parties to take all necessary legislative measures for the implementation of the rights recognized in the Convention. This includes incorporating into national legal frameworks all international human rights commitments, ensuring that services and medications are available at appropriate levels of the health system to maximize safe uptake, ensuring non-discrimination in access to health-related information and services, and removing impediments to realizing the child's rights to health and survival.

43. The Committee on the Rights of the Child has determined that "a comprehensive review of all domestic legislation and related administrative guidance to ensure full compliance with the Convention is an obligation" and that States parties "need to ensure, by all appropriate means, that the provisions of the Convention are given legal effect within their domestic legal systems".[23] This should begin with an assessment of the existing legislative framework and structures for any potential impediment to, or discriminatory effect on, reducing child mortality and morbidity. Alongside an analysis of data on priority child health issues, such an assessment can highlight where current legislative measures are sufficient, where amendments or repeal may be needed and where legislative gaps exist that need to be filled.

44. States are required to enact national laws that:

(a) Incorporate international human rights commitments relevant to child health and survival;

(b) Place a statutory obligation on the State to provide the services, programmes, human resources and infrastructure needed to realize children's rights relating to health and survival, including those considered core obligations;[24]

(c) Recognize children as rights-holders and define the scope of their rights relating to health and survival based on international human rights obligations;

(d) Clarify what services children, pregnant women and parents are entitled to claim, and disseminate that information;

(e) Provide a statutory entitlement to essential, child-sensitive, high-quality health and related services for pregnant women and children under 5, including birth registration and other social services, irrespective of their ability to pay;

(f) Regulate public and private services and medications relating to child health to ensure that they cause no harm and are of good quality;

(g) Enable public participation and dialogue in legislative processes by ensuring functional national and subnational political processes and public forums;

(h) Provide a framework for access to effective, child-friendly legal remedies, both judicial and non-judicial, in the case of human rights violations in relation to child health and survival, and ensure that statutes of limitation are not unduly restrictive.[25]

[23] CRC/GC/2003/5, paras. 18-19.

[24] E/C.12/2000/4, paras. 43-44; CRC/C/GC/15, para. 73.

[25] General Assembly resolution 60/147, annex, para. 7.

B. Governance and coordination

45. Governance of child health means ensuring that the appropriate systems and coordination mechanisms are in place to facilitate the full realization of all child health-related rights and to provide avenues for remedy and redress where obligations are not fulfilled. This includes ensuring collaboration, coordination and dialogue between government ministries, local governments, service providers and communities, and supporting systematic monitoring and follow-up action to ensure that children's health-related rights are realized.[26]

46. Strong governance and coordination mechanisms are particularly critical in the context of a human rights-based approach to child mortality and morbidity given the need for attention to the wide range of actors involved, including health and other sectors within government, the private sector, families, communities, civil society and other stakeholders. Building on existing systems, strengthening them and adapting them as appropriate can facilitate the realization of child health-related rights and reduce child mortality and morbidity.

47. Decisions about allocations to different levels of services and geographical areas should reflect patterns of mortality and morbidity, the core elements of the primary health care approach and due attention to disadvantaged groups. While decentralization or delegation may be required to meet the particular needs of localities, sectors or federal systems, this does not reduce the direct responsibility of the central or national government to fulfil its obligations to all children within its jurisdiction. Similarly, the State remains fully accountable, regardless of the level of involvement of the private sector.

48. States are required to:

(a) Ratify and implement international human rights instruments and their related optional protocols relevant to under-5 mortality and morbidity, and ensure the inclusion of information on efforts made to reduce under-5 mortality and morbidity in periodic reports to human rights mechanisms;

(b) Adopt and enforce appropriate laws and regulations;

(c) Ensure that appropriate structures, processes and resources are made available to translate laws and policies relating to child health and survival into practice, including institutional reform and capacity-building for duty-bearers to enable them to understand and meet their obligations as required;

(d) Identify and remove obstacles to transparency, coordination, partnership and accountability in the provision of services affecting child health and survival;

(e) Establish and use a comprehensive and cohesive national coordinating framework on children's health, situated within child welfare and protection systems as well as within the continuum of care for reproductive, maternal, neonatal and child health, and built upon human rights standards and principles. This will facilitate cooperation between government ministries and different levels of government, as well as interaction with civil society, including parents and other caregivers;

[26] UNICEF Cambodia, "Local governance for child rights".

(f) Engage all sectors of society in reducing child mortality and morbidity. This should include:

(i) The creation of conditions conducive to the continual growth, development and sustainability of relevant civil society organizations;

(ii) Active facilitation of civil society involvement in the development, implementation, monitoring and evaluation of children's health policies and services;

(iii) The provision of appropriate financial support, or assistance in obtaining financial support, to relevant civil society organizations;

(iv) Capacity-building of rights-holders to enable them to understand their entitlements in relation to child health and survival and engage productively with service providers in securing those entitlements;

(g) Clarify the roles and responsibilities of all duty-bearers with regard to child health and survival;

(h) Ensure that all sectors working to address child mortality and morbidity fulfil their human rights-related responsibilities. This includes ensuring non-discrimination in service delivery, transparency in budgeting, and functional mechanisms for accountability;

(i) Identify and prioritize action to benefit children from marginalized groups and children who are at risk of any form of violence or discrimination.

C. Planning

49. Guaranteeing the child's rights to health and survival implies an obligation to have a long-term national plan to address child mortality and morbidity based on evidence and the promotion and protection of human rights. The first step in all planning processes should be a situation analysis, not only to identify priority child health issues and their underlying determinants but also to map existing plans, services and capacities for addressing them. This should identify duty-bearers and include an assessment of their capacity to fulfil their human rights-related obligations in this regard. Situation analysis data should be disaggregated to enable groups of children who are marginalized and/or have particularly poor health indicators to be identified.

50. Based on the situation analysis and building on existing national and subnational strategies and plans, a strategy or plan should be developed. Benchmarks and targets which focus on child survival and development should be established to demonstrate the planned progressive realization of child health-related rights.

51. States are required to:

(a) Ensure that the national plan is informed by appropriately disaggregated data and incorporates attention to groups of children who are the most marginalized, discriminated against and/or have the poorest health indicators. Where disaggregated data are unavailable, plans should include an approach to their timely collection;

(b) Involve a wide range of stakeholders in planning processes, including State and non-State actors;

(c) Include child health and survival in other sectoral policies, highlighting the links between children's health and survival and the underlying determinants of health;

(d) Assess current institutional capacity to fulfil duty-bearers' roles and responsibilities for child health and provide adequate resources, including capacity-building, to ensure that those roles can be fulfilled;

(e) Ensure that all goods, services and information relevant to child health, whether provided through facilities or community-based interventions, are available, accessible and acceptable to all, as well as being of good quality;

(f) Ensure an appropriate and equitable distribution of resources, including financial resources, health services, goods and facilities and an adequately trained health workforce, to address child mortality and morbidity, with adequate attention to marginalized populations;

(g) Establish benchmarks and targets, budgeted action plans and operational strategies to reduce child mortality and morbidity within the time frame of the plan;

(h) Develop a framework for monitoring and evaluating policies, programmes and services, and promoting accountability for child mortality and morbidity;

(i) Make accessible the national plan and any accompanying plans of action and budgets to all rights-holders and duty-bearers.

D. Budgeting

52. States have an obligation to take steps to address child mortality and morbidity to the maximum of their available resources. This includes demonstrating their commitment to the progressive fulfilment of all their obligations in relation to child mortality and morbidity and prioritizing them even in the context of political or economic crises or emergency situations. This requires sustainable financing for children's health and related policies, programmes and services. International funding assistance is of crucial importance but should not replace governmental funding to address child mortality and morbidity and does not relieve States of their obligation to devote the maximum available resources to that area.

53. If the overall State budget increases, the budget to address child mortality and morbidity should increase. Conversely, in the face of overall budget reductions, the budget for addressing child mortality and morbidity should not be reduced unless the State can demonstrate that it has taken all reasonable measures to avoid such a reduction. Policy-makers are obliged to avoid decisions that might reduce the enjoyment of human rights by any group considered marginalized or discriminated against.

54. All activities should be fully costed, financed and made visible within national and subnational budgets. Budget planning, monitoring and evaluation processes relating to child health and survival should include the participation of citizens, civil society and health service providers.

55. Child health budgets should be transparent and used to ensure government accountability for child health, including the realization of child health-related rights. Transparency and simplification of processes relating to child health budgeting and expenditure may be required, to promote civil society involvement in planning, monitoring and evaluating work in those areas. Where budgets and allocations are insufficient to fulfil governmental obligations with regard to the child's right to health, civil society has an important role to play.

56. States are required to:

(a) Make investment in child health and survival visible in the State budget through detailed compilation of resources allocated to them and expended;

(b) Meet the WHO-recommended minimum health expenditure per capita[27] and prioritize child health in budgetary allocations;

(c) Increase the budget and expenditure to address child mortality and morbidity, and their underlying determinants, over time, using interim benchmarks and targets to demonstrate progress, in line with the principle of progressive realization;

(d) Focus investment on the populations of children that are most marginalized and discriminated against;

(e) Reduce reliance on direct, out-of-pocket payments, increase the level and share of revenues channelled through prepaid and pooled mechanisms, and use the pooled funds to cover health-care costs for economically disadvantaged children;

(f) Implement rights-based budget planning, monitoring and analysis, as well as impact assessments of how investments, particularly in the health sector, may improve child health and survival outcomes;

(g) Identify insufficiencies and bottlenecks in child health budgeting and the disbursement of funds and take appropriate remedial action as required;

(h) Ensure sufficient transparency in budgets relating to child health to allow effective and participatory tracking of the flow of resources, including budgeting, allocation and expenditure, and its timeliness, from the national ministry of health through all levels down to health facilities.

E. Implementation

57. Ensuring access to interventions, services and medications for child health requires action across the health sector, and also beyond it to encompass efforts in other sectors to address the underlying and structural determinants of child mortality and morbidity. Multisectoral action is required that fully conforms with international human rights standards and principles with regard to both its desired outcomes and its implementation processes.

58. States have an obligation to ensure for all children and caregivers the availability, accessibility, acceptability and quality of all facilities, goods and services relating to child health and survival, including services outside the health sector. Special attention may be required to reach the most marginalized child populations, in order to fulfil the obligation of immediate application of the principles of equality and non-discrimination.

59. States are required to:

(a) Build the capacity of duty-bearers to fulfil their obligations and of children, parents and other caregivers to understand and claim their child health- and survival-related rights;

(b) Ensure that health workers are adequately trained in child health and child rights, supervised and mentored;

(c) Provide access to essential interventions for addressing child mortality and morbidity[28] as well as other interventions outside the health sector to address underlying determinants;

[27] WHO. "Spending on health: A global overview", Factsheet No. 319, April 2012.

(d) Provide access to essential medicines for addressing child mortality and morbidity included in the WHO list of essential medicines for children;[29]

(e) Adopt evidence-based interventions to support good parenting, including parenting skills education, support group and family counselling, especially for families experiencing children's health and other social challenges;[30]

(f) Ensure functional systems for the prevention, identification and reporting of abuse, neglect or negligent treatment, maltreatment or exploitation of children while in the care of parents or other caretakers;[31]

(g) Ensure the participation of affected populations and other stakeholders in implementing efforts to address child mortality and morbidity. This might include, for example, consulting parents and caregivers on their priorities for addressing child mortality and morbidity, or involving community members in health facility management committees;

(h) Ensure, including through the analysis of disaggregated data, that the implementation of policies, programmes and services does not discriminate against any segment of the population and that, where necessary, additional efforts are made to reach populations of children who are marginalized or discriminated against;

(i) Reduce reliance on out-of-pocket payments for health services by providing social protection or sharing financial risks across the population, which promotes access to services by the most marginalized populations.

F. Monitoring and evaluation

60. Monitoring and evaluation of data relating to child mortality and morbidity, collected regularly and rigorously, are required to track fulfilment of relevant human rights as well as to inform policies, programmes and services. Well-functioning health information and surveillance systems should ensure that data are reliable, transparent and consistent, while protecting the right to privacy of children and their families. Data should be disaggregated to reveal which groups of children are being left behind and should be regularly used to track progress and direct action.

61. National accountability mechanisms should monitor, review and recommend remedial action based on their findings. Monitoring means providing data on the health status of children, the quality of children's health services, and how much is spent, where, on what and on whom. This should include both routine monitoring and periodic, in-depth evaluations. Reviewing means analysing the data and consulting children, families, other caregivers and civil society to determine whether children's health has improved and whether governments and other actors have fulfilled their commitments. Acting means using evidence emerging from those processes to repeat and expand what is working and to remedy and reform what is not.[32]

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[28] The Partnership for Maternal, Newborn and Child Health, *A Global Review of the Key Interventions Related to Reproductive, Maternal, Newborn and Child Health*, (Geneva,2011).

[29] WHO model list of essential medicines for children, available from www.who.int/medicines/publications/essentialmedicines/en/.

[30] CRC/C/GC/15, para. 67.

[31] Convention on the Rights of the Child, art.19; CRC/C/GC/13, paras. 47-49.

[32] CRC/C/GC/15, para. 118.

62. Existing monitoring, evaluation and accountability processes and mechanisms should be assessed to determine the extent to which those functions can be fulfilled to help ensure child health and survival and where they may need to be strengthened. The generation and use of timely and accurate information relating to all factors affecting child mortality and morbidity are key to improving child health, informing an appropriate and effective response and ensuring the accountability of duty-bearers.

63. States are required to:

(a) Regularly review their health information system, including vital registration and childhood disease surveillance, with a view to its improvement;

(b) Create a well-structured and appropriately-disaggregated set of quantitative and qualitative indicators that encompasses key recommended child health indicators within and beyond the health sector, with a view to measuring changes in child health and survival, tracking progress towards established targets and addressing any discrimination;

(c) Monitor and evaluate the effects of the national legal and policy framework on child mortality and morbidity;

(d) Monitor budget allocations and expenditure for child health and other factors affecting child mortality and morbidity;

(e) Ensure the existence of quality assurance systems for education and training, including accreditation and certification for both private and public health workers, that meet nationally and internationally agreed standards;

(f) Monitor and evaluate non-State actors' fulfilment of their human rights responsibilities relevant to child health and survival, including that of private sector providers of health and ancillary services;

(g) Include civil society and other community members in the collection and analysis of monitoring and evaluation data relating to child health, as well as in making decisions arising from analysis of those data;

(h) Conduct regular reviews of child deaths in order that lessons may be learned at all levels of health and other systems, as a way to inform actions to prevent future child deaths;

(i) Monitor the use of mechanisms for reporting, remedy and redress in the case of violations of human rights relating to child mortality and morbidity and ensure their functionality;

(j) Disseminate the findings of child health monitoring and evaluation efforts and use the data to adapt and improve policies, programmes and services relating to child mortality and morbidity;

(k) Establish transparent accountability processes and mechanisms by setting performance targets, collecting information about action taken to meet those targets, making public judgements about the adequacy of such actions and imposing sanctions for unsatisfactory performance.

G. Remedies and redress

64. For rights to have meaning, effective remedies must be available to redress violations. Effective mechanisms for remedy and redress can promote the implementation of existing laws, policies and programmes, inform the reform of laws, policies and budgets that do not adequately protect children's rights, challenge barriers to access to child health care, and provide redress for violations of child health-related rights. Judicial, medical and

other personnel should have adequate capacity to understand and respect the evolving maturity of the child and the child's right to be heard.

65. Functional accountability mechanisms that are enforceable not only through the courts but also through quasi- and non-judicial mechanisms such as national human rights institutions, children's ombudspersons and subnational social accountability and complaints mechanisms are a critical element of a human rights-based approach to reducing child mortality and morbidity.

66. An audit of existing remedy and redress mechanisms can help to identify areas that require strengthening.

67. States are required to:

(a) Provide, in law, policy and budgets, for a range of effective monitoring, claims and redress mechanisms available and accessible to children and their caregivers. They should include the provision of child-friendly information, advice, advocacy and access to the courts with necessary legal and other assistance;[33]

(b) Ensure and facilitate access to courts, as well as to quasi- and non-judicial accountability mechanisms, for parents and caregivers;

(c) Ensure community participation in determining appropriate mechanisms for accountability, including remedy and redress, relevant to child health and survival;

(d) Raise awareness about the applicability of claims relating to child health-related rights among lawyers, judges, parents and caregivers through training, education and, where necessary, support to families;

(e) Ensure that where rights are found to have been breached there is appropriate reparation, including, where needed, compensation and measures to promote physical and psychological recovery, rehabilitation and reintegration;[34]

(f) Identify and remove any barriers to accessing mechanisms for reporting, remedying and redressing human rights violations in relation to child mortality and morbidity;

(g) Ensure that independent accountability mechanisms can be used to hold in-country stakeholders as well as international cooperation partners to account.

H. International cooperation

68. States have an obligation to promote and encourage international cooperation with a view to achieving progressively the full realization of the child's right to health.[35] International cooperation efforts should be rights-based in terms of the outcomes they seek to achieve as well as their own processes of design, implementation, monitoring and evaluation. Coordination among different States giving and receiving cooperation assistance is required to ensure the complementarity of efforts to address child mortality and morbidity as well as their consonance with local priorities.

69. States and development partners are required to pay particular attention to children's health priorities in resource-limited settings, in accordance with the Convention on the Rights of the Child, the Iinternational Covenant on Economic, Social and Cultural Rights

[33] Ibid.
[34] Ibid.
[35] Convention on the Rights of the Child, art 24, para. 4.

and other relevant principles and guidelines.[36] Non-State development partners such as foundations, the private sector, international financial institutions and non-governmental organizations, also have responsibilities to ensure that child rights relating to health and survival are not violated through their actions.[37]

70. States are required to:

(a) Direct international cooperation assistance to support and strengthen State-led health systems and national plans to address child mortality and morbidity;

(b) Adopt a human rights-based approach to international cooperation for reducing child mortality and morbidity by ensuring attention to all relevant human rights standards and principles, for example by ensuring that priorities are set through participatory processes, that there is a focus on the most excluded and discriminated against, and that mechanisms for international accountability are in place;

(c) Ensure that all international cooperation supports laws, policies, programmes and services designed, implemented, monitored and evaluated using a human rights-based approach to reducing child mortality and morbidity;

(d) Seek to ensure predictable, harmonized and transparent international cooperation to support State responses to child mortality and morbidity;

(e) Strengthen their international commitment, cooperation and mutual assistance with the objective of reducing child mortality and morbidity, including through the sharing of good practices, research, policies, monitoring and capacity-building;

(f) Direct their international cooperation assistance to supporting the creation of an environment in which all members of society can discharge their responsibilities with regard to child-health related human rights.[38] This may include, for example, supporting social protection policies so that parents and caregivers are able to fulfil their responsibilities towards their children;

(g) Regulate, in line with relevant principles,[39] private actors over which they exercise control, such as pharmaceutical companies, commodities and device manufacturers, producers and marketers of breastmilk substitutes and other companies that affect efforts to address child mortality and morbidity overseas, in order to prevent violations of child health-related rights and ensure accountability, including remedy and redress, if violations occur;[40]

(h) Minimize the impact of economic sanctions on child health and survival.[41]

V. Illustrative example: addressing neonatal mortality

71. The example provided below seeks to illustrate a human rights-based approach to reducing neonatal mortality and demonstrates the practical value of this approach.

72. It covers different levels of intervention relevant to the prevention of neonatal mortality: laws and policies, access to health information and services and community-

[36] The principles of the Paris Declaration on Aid Effectiveness; and the principles of the Accra Agenda for Action.

[37] Guiding Principles on Business and Human Rights (A/HRC/17/31).

[38] E/C.12/2000/4.

[39] A/HRC/17/31; Children's Rights and Business Principles.

[40] E/C.12/2000/4; CRC/GC/16.

[41] E/C.12/1997/8.

based action. In addition, it encompasses systematic attention to each of the key principles of a human rights-based approach and selected elements of the operational guidance.

73. Neonatal mortality - deaths within the first 28 days of life - accounts for approximately 43 per cent of all child deaths.[42] Up to two thirds of those deaths could be prevented if known effective health measures were provided at birth and during the first week of life.[43]

74. Tackling neonatal mortality includes attention to the care of pregnant women, skilled attendance at delivery, and management of neonatal sepsis. However, low education levels, lack of access to clean water and adequate sanitation, insufficient access to health services (including emergency care at delivery), gender discrimination and a lack of empowerment prevent women from seeking health care and making the best choices for themselves and their children's health, resulting in delays and poorer health outcomes. A human rights-based approach to addressing neonatal mortality encompasses attention to all of these dimensions of women's and neonatal health care, including the underlying determinants of neonatal mortality.

75. Attention to the issues raised by the child's rights to health and survival and other relevant human rights, should be incorporated throughout policy and budget planning processes. These processes require identifying the resource needs for implementation and prioritizing actions through transparent mechanisms of accountability.

Legal and policy environment

76. A first step is to ratify international treaties relevant to neonatal mortality and incorporate them into national laws and policies.

77. Adopting and enforcing laws and policies that promote access to high-quality maternal and newborn care in both the public and private sectors is a key component of a human rights-based approach to preventing neonatal mortality. This encompasses laws and policies for: ensuring universal access by women and children to health-care services, birth registration and social services; non-discrimination; notification of maternal and perinatal deaths; context-specific approaches to HIV and infant feeding; and implementing and monitoring the International Code of Marketing of Breast-milk Substitutes.

78. In addition, workplace policies are important to support women during pregnancy and in the postnatal period by protecting pregnant women from physically demanding work and supporting breastfeeding in the workplace.[44]

Health services

79. Given the critical importance of health services to neonatal health in the immediate postnatal period, attention to the availability, accessibility, acceptability and quality of facilities, goods and services is required.

80. It is important that the availability of life-saving interventions and commodities be secured in all health facilities, including those in remote areas. Attention to non-discrimination ensures that actions to address neonatal mortality are sufficiently targeted to marginalized communities to eliminate inequalities.

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[42] WHO, Global Health Observatory.

[43] WHO. Newborns: reducing mortality factsheet.2012.

[44] ILO.Maternity Protection Convention, 2000 (No. 183).

81. Access to early postnatal care for mothers and newborns within two days of birth has a major impact on newborn health and can be enhanced through the elimination of user fees for maternal and neonatal health services that might pose a barrier to service uptake.

82. The availability of skilled health workers who are motivated, adequately equipped and appropriately distributed is critical to ensuring access to services. Providing extra care to babies with low birth weight is particularly important to reduce newborn mortality, and health personnel need to be given the capacity and a clear mandate to support those babies and their mothers. Ensuring that midwifery curricula meet global standards and that students acquire the necessary competencies to deliver good-quality services with confidence can help ensure an adequately skilled health workforce.

83. Appropriate care during labour, birth and in the immediate postnatal period can prevent the onset of complications or enable their early detection and prompt management. Ensuring the acceptability of maternal and neonatal health services requires, for example, ensuring that women are treated with dignity and respect, that pain management is provided for mothers and newborns, and that there is no unnecessary separation of mothers and newborns.

84. Ensuring the quality of maternal and neonatal services for all women and infants without discrimination may increase their uptake and have a positive impact on neonatal mortality.

85. Alongside the expansion of service delivery, a human rights-based approach requires addressing the underlying legal, policy and practical reasons, for example poverty, low levels of education, gender inequality, disability and discrimination, why access to neonatal health services remains constrained for some populations.

86. The principles of equality and non-discrimination demand attention to why neonatal mortality remains a problem and which groups of infants are most affected. They require that national policies and programmes prioritize improving access for the most marginalized populations. Those groups will vary according to the context, which again highlights the need for appropriately disaggregated data as a tool for identifying groups that may require special attention.

87. To ensure accountability at the health facility level, feedback mechanisms should be in place for health workers and clients to identify any shortcomings in service provision, such as drug stock-outs or poor quality of care, that managers should review and take appropriate action on in a timely fashion.

Community-level interventions

88. Involving communities in child health-related activities can reduce neonatal mortality and help ensure that interventions are appropriate and effective.[45] A recent review found benefits for maternal and child health outcomes from attention to participation, particularly in combination with additional human rights principles.[46]

89. Community health committees, whose membership combines local citizens and community health workers, are an example of a mechanism through which community participation can help improve neonatal health outcomes by sharing responsibility for ensuring that services maintain a certain standard of performance. The human rights

[45] M. Rosato and others, "Community participation: lessons for maternal, newborn, and child health", in *The Lancet*, Vol. 372, Issue 9642, 13 September 2008.

[46] F. Bustreo and others, "Women's and children's health", footnote 4.

principles of participation, equality and non-discrimination require ensuring that various groups of women are included.

90. Ensuring the participation of marginalized groups in community health committees requires reaching, and supporting the engagement of, those who are often not reached, such as remote populations, women at risk of adverse pregnancy outcomes, people with low capacity to engage in health and development processes and people who have little experience of articulating their needs and priorities.

91. Strategies should empower committee members to articulate their expectations towards the State and other duty-bearers to take charge of their own development and to facilitate collaboration with others in implementing interventions.[47]

92. Situated within the community, committee members are ideally placed to advise on where, when and how interventions to address neonatal mortality can be delivered to ensure their availability, accessibility and acceptability to the whole community, especially the most marginalized.[48] In this way, in addition to improving access to information and services, community participation in planning service delivery can also contribute to addressing inequalities in neonatal outcomes.

93. An independent accountability mechanism with accessible complaints mechanisms will also be important for promoting social accountability, by ensuring that community members can monitor local health service delivery and the committee's activities.

94. This example of a human rights-based approach to reducing neonatal mortality highlights that, beyond the legal imperative for attention to human rights, this approach can lead to better health outcomes by ensuring systematic attention to the legal and policy environment, equality and non-discrimination, the participation of affected populations, the best interests of the child, accountability and the availability, accessibility, acceptability and quality of child health facilities, goods and services.

VI. Moving forward

95. **To ensure that all efforts to reduce child mortality and morbidity fully conform to recognized international human rights standards and principles, the Office of the United Nations High Commissioner for Human Rights (OHCHR) strongly encourages the implementation of the present technical guidance at the national and subnational levels.**

96. **States should disseminate the technical guidance to all relevant government sectors and other stakeholders, and ensure its systematic application in the development, implementation and review of laws, policies, budgets and programmes related to child to health and survival. States are also encouraged to generate and disseminate examples of good practice of implementation of a human rights-based approach to reducing child mortality and morbidity.**

97. **The technical guidance should be applied within the framework of the broader recommendations made by the High Commissioner for Human Rights, the WHO and the Independent Expert Review Group on Monitoring and Accountability for Women's and Children's Health on strengthening human rights and accountability frameworks to achieve better health and accountability for women and children. To**

[47] OHCHR, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*, 2006.

[48] A/HRC/21/22 and Corr. 1 and 2.

that end, relevant United Nations entities, as well as other relevant stakeholders, should provide necessary technical assistance to States in the application of the technical guidance, including through the development and dissemination of tools for its operationalization at all relevant stages of national planning and action cycles for child health and survival.

98. **States and other relevant stakeholders are strongly encouraged to take into account the technical guidance in their deliberations on the post-2015 development agenda, as well as in the implementation and monitoring of the new development goals.**

99. **OHCHR invites human rights mechanisms to pay particular attention to State efforts to reduce under-5 mortality and morbidity.**

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Proceedings of the workshop on the impact of the application of unilateral coercive measures on the enjoyment of human rights by the affected populations, in particular their socioeconomic impact on women and children, in the States targeted

Report of the Office of the United Nations High Commissioner for Human Rights*

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I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 24/14, in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to organize a workshop on the impact of the application of unilateral coercive measures on the enjoyment of human rights by the affected populations, in particular their socioeconomic impact on women and children, in the States targeted, and to prepare a report on the proceedings of the workshop and to submit it to the Human Rights Council at its twenty-seventh session.

II. Organization of the workshop

2. The workshop was held on 23 May 2014 in Geneva. It was chaired and moderated by Vera Gowland-Debbas, Emeritus Professor of International Law at the Graduate Institute of International and Development Studies in Geneva. The workshop comprised an opening session and three subsequent thematic sessions: session I, on assessing the impact of unilateral coercive measures on human rights, in particular of women and children; session II, on mechanisms to assess and mitigate the adverse impact of unilateral coercive measures and ensure accountability; and session III, on contemporary unilateral coercive measures: learning lessons from the past to develop basic principles to redress adverse impacts. During the thematic sessions, nine panellists made presentations; each thematic set of panel presentations was followed by an interactive dialogue. The workshop also included a presentation by the Human Rights Council Advisory Committee on its forthcoming research-based report on mechanisms to assess the negative impact of unilateral coercive measures on the enjoyment of human rights and to promote accountability, the preparation of which was requested by the Council in its resolution 24/14.

3. The objectives of the workshop were to provide a platform for the exchange of views among States, academic and civil society experts, and human rights mechanisms on the impact of unilateral coercive measures on human rights, especially of women and children; to follow up on the recommendations of the previous workshop, held in 2013, and contribute to the current efforts of the Human Rights Council Advisory Committee to identify mechanisms to assess and mitigate the adverse impact of unilateral coercive measures and ensure accountability; and to share experiences of contemporary unilateral coercive measures and learn lessons from the past as a first step towards developing basic principles and guidelines to redress the adverse impacts of unilateral coercive measures.

III. Opening session

4. In opening the workshop, the Chair noted a progressive limitation of the freedom of States to resort to unilateral measures since the adoption of the Charter of the United Nations. In its resolution 2625 (XXV), the General Assembly considered that the use of coercive measures in order to obtain from a State the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind violated the principle of non-intervention. However, under the customary international law of State responsibility, codified by the International Law Commission, countermeasures which would otherwise constitute illegal measures were justified if taken by a State injured by an internationally wrongful act of another State, provided they complied with certain conditions and limitations. Those conditions included the principle of proportionality, respect for obligations for the protection of fundamental human rights and respect for obligations of a humanitarian character, as well as peremptory norms of general international law. The

Chair recalled that the disproportionate and indiscriminate human costs of comprehensive sanctions, most prominently the effects on the civilian population of the decade-long sanctions against Iraq, had accelerated the trend towards "smart" sanctions targeted against individuals (such as government leaders), particular commodities (such as arms) or services (such as asset freezes). Those in turn had generated their own human rights problems, and the lack of due process mechanisms for the Al-Qaida sanctions list of the Security Council, imposing asset freezes and other targeted measures against terrorist suspects, had resulted in challenges before domestic and regional courts. She noted that the 2005 World Summit Outcome, while recognizing the utility of sanctions as a tool to maintain international peace and security, stressed that there should be regular monitoring and review by the Security Council to ensure accountability for the way in which sanctions were implemented, and that such measures could now be challenged before an ombudsperson. The Chair stated that it would be paradoxical if the trend towards constraints on collective measures were not accompanied by similar constraints and accountability in respect of unilateral coercive measures, to prevent harmful effects on populations.

5. On behalf of OHCHR, the Chief of the Development and Economic and Social Issues Branch delivered welcoming remarks. He noted that unilateral coercive measures had potential impact on all three pillars of the United Nations: peace and security, development and human rights. In its thematic report submitted to the Human Rights Council in 2012, OHCHR had stressed that such measures must be subject to stringent conditions as to their duration and their proportionality to the legitimate and lawful aim sought, and must include explicit human rights safeguards, including monitoring by independent expert. The workshop provided an opportunity for an exchange of views on the forms that such safeguards and monitoring mechanisms should take. He reminded participants that no State should ever impose measures against another that were in breach of its human rights or humanitarian law obligations under treaty or customary international law, and that States which were subject to unilateral coercive measures remained duty bearers obligated to respect, protect and fulfil the human rights of all persons under their jurisdiction. In conclusion, he noted the political nature of unilateral coercive measures, which were generally resorted to when diplomatic relations between the States concerned had become hostile or had broken off altogether, and encouraged participants to focus not on politics but rather on the very real effects of such measures on human rights.

6. Subsequently, the Chair opened the floor for general statements. Representatives of the Islamic Republic of Iran (on behalf of the Non-Aligned Movement), Qatar, Belarus, the Russian Federation, Myanmar, Cuba, Zimbabwe, the Sudan and Pakistan took the floor, followed by the Independent Expert on the promotion of a democratic and equitable international order, Alfred-Maurice de Zayas, and representatives of the Organization for Defending Victims of Violence, the Hawa Society for Women and the Indian Council of South America (CISA). Several participants stated that unilateral coercive measures constituted violations of the Charter of the United Nations, international humanitarian law and international human rights law. Speakers highlighted in particular negative impacts on the rights to health, to an adequate standard of living, to food, to education, to work and to housing, as well as on the right to development. A number of participants proposed that the Human Rights Council should create a special procedure on unilateral coercive measures, and that a monitoring body within the United Nations system should ensure accountability for such measures.

IV. Session I. Assessing the impact of unilateral coercive measures on human rights, in particular of women and children

7. The panellists were Haifa Zangana, a novelist, artist and journalist, Mohamed Younis, Senior Analyst for the Middle East and North Africa at Gallup, and Dursun Peksen, Assistant Professor of Political Science at the University of Memphis. The Chair noted that panellists would address the impacts of both unilateral measures and collective measures, as their impact on civilian populations was not dependent on the distinction in their legal bases.

8. Ms. Zangana presented the effects on Iraqi life of the economic sanctions imposed pursuant to Security Council resolution 661 (1990). She noted that many Iraqis referred to the 12 years and 8 months of sanctions as the "siege", and that the wide-ranging effect of sanctions and the importance of family in Iraqi society made it difficult to separate specific impacts on women and children from those on society as a whole. She detailed the effects on the economy following the collapse of the dinar to less than 1 per cent of its value in 1990, which led to an acute deterioration of living conditions, severely straining the social fabric. Ms. Zangana highlighted particular effects on the right to life, citing estimates by the United Nations Children's Fund (UNICEF) that the first five years of sanctions had resulted in the deaths of half a million Iraqi children under the age of 5. She noted the shortages of medicines and specific effects on the right to health of women, including increases in the incidence of miscarriages, cancer, anaemia, diabetes, depression and other conditions. People had reduced their visits to friends or relatives due to their shame at being unable to offer hospitality, a deep-rooted tradition in Iraqi society. The right to education had been severely affected by poverty, which forced children into work; restrictions on the import of educational materials; and the struggle to secure basic daily needs.

9. Mr. Younis presented some results of the Gallup World Poll from Egypt, the Islamic Republic of Iran and Ukraine. The World Poll included a measure of well-being which asked individuals to rate their lives currently and their prospects in five years on a scale of 1 to 10. Those rating 4 or lower on both were defined as "suffering", while those rating their current lives as 7 and above and future lives as 8 and above were defined as "thriving". In the Islamic Republic of Iran, the suffering rate had increased drastically during the period of sanctions, while the thriving rate had remained relatively stable. In 2013, the Islamic Republic of Iran had the eighth highest rate of suffering in the Middle East and Central Asia region.

10. Mr. Younis also presented the results of a survey of Iranians on the impact of sanctions, and their views thereon. Between 2011 and 2013, the proportion of respondents that considered that the sanctions of the United Nations, the United States of America and Western Europe would hurt the livelihood of Iranians a great deal had almost doubled. According to the survey, men were the most satisfied with the efforts of the Government to deal with the poor (men 62 per cent, women 55 per cent). Households with children were suffering more than households with no children. Households with children were more exposed to a lack of money to buy food and provide adequate housing. Women were more likely than men to express the view that their own personal livelihoods, as well as those of Iranians in general, were hurt a great deal by the sanctions. Almost half of the Iranians surveyed in 2012 and 2013 held the United States most responsible for the sanctions, compared to around 10 per cent who felt that the Government of the Islamic Republic of Iran was most responsible; a large majority of both men (68 per cent) and women (62 per cent) were of the view that the Islamic Republic of Iran should continue to develop its nuclear power capabilities despite the sanctions.

11. Mr. Younis pointed out that the results of the surveys sparked questions about what was accomplished through sanctions, and challenged the assumption that sanctions would be able to reverse a situation.

12. Mr. Peksen noted that his research showed that, in most cases, economic sanctions were more likely to fail in their purpose than to achieve the intended results. They tended to be ineffective, counterproductive and detrimental to basic freedoms and rights. Targeted elites were generally able to evade their effects, doing whatever they could to resist the pressure and maintain credibility, often leading to higher levels of oppression to maintain power, with disproportionate impacts on vulnerable groups, children, women and minorities. Economic sanctions often reduced women's level of labour participation, as women were often involved in export-oriented industries, such as textiles and the assembly of electronic devices. Sanctions could also cause more violence against women, as growing frustration and feelings of injustice led to a rise in crime in targeted countries, including assault and rape. Examples included Cuba, Haiti and Iraq. Sanctions failed to affect elites or to promote reform in the targeted State, but also had effects on neighbouring countries, which might suffer economically from the reduction in trade or see an influx of refugees or an increase in levels of violence. Negative spillover effects could have a regional impact. Mr. Peksen concluded that blunt economic measures were not useful, and suggested a focus instead on types of smart sanctions that could reduce military expenditure support and more directly target leaders.

13. The Chair welcomed the presentations by the panellists and referred to further examples demonstrating the harmful effects of sanctions, including the effects on third parties, such as Jordan, of sanctions against Iraq, and the way in which the relevant sanctions committee of the Security Council had interpreted the humanitarian exceptions, refusing for example to allow Cuba to export baby food to occupied Kuwait. She proposed that the General Assembly should request special reports from the Security Council, in accordance with the Charter of the United Nations, on its adoption of sanctions and their impact.

14. In the ensuing interactive dialogue, Denis Halliday, former United Nations Humanitarian Coordinator in Iraq; a representative of the Hawa Society for Women; Obiora Okafor, Professor, Osgoode Hall Law School and member of the Human Rights Council Advisory Committee; and a representative of the Institut international pour la paix, la justice et les droits de l'homme took the floor. Several speakers questioned whether it was possible to make a distinction between different types of sanctions, and in particular whether smart sanctions were superior. A number of speakers drew attention to the sanctions against the Sudan, stating that those had negative effects on the realization of the Millennium Development Goals and human rights, including the rights to health, to an adequate standard of living and to education.

15. Responding to questions and points raised, Mr. Peksen said that sanctions were sometimes used for symbolic purposes, which could be useful, but that there was no significant evidence that smart sanctions were better than others. He suggested that perhaps travel bans should be imposed and the wealth of leaders should be targeted. Mr. Younis stated that it was difficult to assess the impact of smart sanctions globally, but surveys similar to that conducted in the Islamic Republic of Iran could be carried out elsewhere. Ms. Zangana stated that the question of sanctions was a fundamentally moral one about who was entitled to impose them and affect the access of others to water, food and health care. She questioned their long-term impacts on how people saw one another and built future dialogue.

16. Summing up session 1, the Chair highlighted the relationship between the legality and effectiveness of unilateral coercive measures. The legal basis of sanctions imposed outside the auspices of the Security Council once the latter had taken measures against a

targeted entity should be questioned and it could be argued that the Security Council should have exclusive competence in such a situation. She proposed that sanctions could remain symbolic, and stated that they should in all cases be equitable and not only effective, and should be accompanied by dialogue, mediation and negotiation.

V. Session II. Mechanisms to assess and mitigate the adverse impact of unilateral coercive measures and ensure accountability

17. The panellists were Antonios Tzanakopoulos, Associate Professor of Public International Law at the University of Oxford, Susanne Kühn, Head of the Public Sector Integrity Programme at Transparency International, and Obiora Okafor, Professor at Osgoode Hall Law School and member of the Human Rights Council Advisory Committee.

18. Mr. Tzanakopoulos defined a unilateral coercive measure as a measure that was in the first instance unlawful under international law, but whose wrongfulness was precluded owing to the fact that it was taken by a State that had been injured by an internationally wrongful act against the State that bore responsibility for that act. All unilateral coercive measures must respect the principle of proportionality. In that connection, measures adversely affecting human rights would likely be disproportionate, as they would have effects that were not commensurate with the injury suffered by the reacting State. However, it would be difficult to establish a direct relation between the unilateral coercive measure and the adverse effect on the enjoyment of human rights.

19. Examining potential avenues for legal accountability for unilateral coercive measures, Mr. Tzanakopoulos considered both diplomatic and adjudicatory means of dispute resolution. He noted that any imbalance in the relative power of the States party to the dispute might hamper progress, so the best protection for a weak State targeted by unilateral coercive measures that it considered unlawful would be adjudication. However, judicial settlement was premised on the consent of all parties to the dispute, which might be difficult to obtain in practice if the State implementing the unilateral coercive measures had not previously indicated consent through unilateral declarations or compromissory clauses in bilateral or multilateral treaties. It was further premised on the willingness of the targeted State to challenge unilateral coercive measures; members of the population suffering the adverse impact had no direct say in the matter. A final possibility would be for third States to argue that disproportionate unilateral coercive measures affecting human rights constituted a breach of an obligation *erga omnes*, which would allow them in turn to impose coercive measures on the State imposing the disproportionate measures. That would assume solidarity rarely seen in the international community, and so he considered that the best mechanism to mitigate the adverse human rights impacts of unilateral coercive measures might be to mobilize public opinion against such measures. That had been done effectively in the case of United Nations sanctions imposed under Chapter VII of the Charter of the United Nations, and had resulted in the creation of a hard monitoring mechanism, at least with respect to one sanctions regime (the creation of the Office of the Ombudsperson in accordance with Security Council resolutions 1904 (2009) and 1989 (2011)). The creation of a similar, perhaps softer, monitoring mechanism might be an option in the case of unilateral coercive measures, but Mr. Tzanakopoulos noted that all attempts to subject such measures to hard monitoring had been abandoned by the International Law Commission during its work on the articles on responsibility of States for internationally wrongful acts.

20. Ms. Kühn addressed the potential positive role that targeted unilateral coercive measures might play in the fight against corruption and impunity. She noted that corrupt

public officials often embezzled funds, which were then transferred abroad. Targeted sanctions against corrupt officials, in particular politically exposed persons, could help to close loopholes, combat corruption and end impunity. Such measures could include denial of entry, which, unlike a travel ban, was normally within the jurisdiction of States. In its anti-corruption action plan adopted in 2010, the Group of 20 urged its members to adopt ad hoc denial-of-entry policies, legal frameworks and enforcement measures, and to cooperate in that area. A lack of publicly available information made it difficult to monitor and hold Governments to account for proper implementation, and the compliance rate among G-20 countries was low. Another tool which might put corrupt officials under pressure was the temporary freezing of economic resources to prevent their use and transfer. That would require greater transparency and information sharing in banking, as well as procedural guarantees against abuse. In conclusion, Ms. Kühn stated that targeted measures could be a powerful tool against corrupt individuals that might avoid the negative human rights impacts of other unilateral coercive measures. She pointed to the need for common standards and objective criteria for targeted unilateral coercive measures, the need to respect proportionality, and the need for adequate procedural guarantees and the highest degree of transparency to ensure their fair and effective implementation.

21. Mr. Okafor considered which of the existing international human rights mechanisms could be most appropriate for mitigating the adverse effects of unilateral coercive measures on the enjoyment of human rights. He identified six factors which should be taken into account in that analysis: the challenge of territoriality and jurisdictionally limited obligations; the need to ensure accountability; access to independent evidence; financial and administrative efficiency; the need to secure and deploy the most appropriate technical expertise; and the reduction of politicization. He noted that the mandate of treaty-based bodies to examine the human rights obligations of a State was generally limited to the territory and jurisdiction of the State under consideration. He suggested that a Charter-based body might be better placed to examine unilateral coercive measures, which by their very nature had extraterritorial effects. Extraterritorial issues might be taken into account in the universal periodic review process, and that mechanism might also meet the identified requirements of financial and administrative efficiency and accountability. However, those Member States conducting the review would not normally have robust access to direct, independent evidence or the flexibility to select and deploy the best available technical expertise. Were the Human Rights Council to decide to appoint a special rapporteur on the issue, that person would have direct access to evidence through country visits, as well as information from civil society organizations. Furthermore, the universal periodic review involved a significantly more political process than the work of a special rapporteur. Mr. Okafor therefore strongly recommended the creation of a dedicated special procedure for the assessment and/or mitigation of the adverse effects of unilateral coercive measures on the enjoyment of human rights.

22. The Chair welcomed the rigorous approach of the panellists, and remarked on some positive trends to overcome some of the identified jurisdictional challenges, including recognition by the International Court of Justice of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as an *erga omnes partes* convention, meaning that any State party could make a claim regarding non-compliance by another State party. She pointed out that many targeted sanctions were not to be seen as mere administrative measures, but were punitive in nature without the accompanying due process guarantees.

23. During the interactive dialogue, interventions were made by representatives of the Indian Council of South America, the Bolivarian Republic of Venezuela, the Hawa Society for Women and the Organization for Defending Victims of Violence, and by Mr. de Zayas. Several speakers highlighted the impact of unilateral coercive measures on the right to self-

determination and the right to development, and some supported the call for the creation of a new special procedure on the human rights impact of unilateral coercive measures.

24. Responding to a question about the determination of responsibility for the human rights impacts of unilateral coercive measures, Mr. Tzanakopoulos explained that such a determination depended on showing causality, but that both the State imposing coercive measures and the State targeted could be legally responsible for violations where causality was established. Regarding the creation of an international mechanism to determine the legality of unilateral coercive measures, Mr. Tzanakopoulos reiterated that it was unrealistic due to differing views among Member States. He noted that a strategy of division might not have a useful outcome, and could lead to an unstable and politicized mechanism. Ms. Kühn highlighted the role of civil society and the media in holding international organizations to account and, in response to a point made by the Chair, noted that the legitimacy of the G-20 to impose targeted sanctions was questionable. Mr. Okafor agreed with one speaker that the dominant media had not fulfilled their role of informing the public about the action of Governments on sanctions. He noted that many mechanisms became "instruments of the powerful", and that of the five permanent members of the Security Council, only the United Kingdom of Great Britain and Northern Ireland currently accepted the compulsory jurisdiction of the International Court of Justice.

VI. Session III. Contemporary unilateral coercive measures: learning lessons from the past to develop basic principles to redress adverse impacts

25. The panellists were Ingrid Macdonald, Geneva Director of the Norwegian Refugee Council, Denis Halliday, former United Nations Humanitarian Coordinator in Iraq, and Sarah Zaidi, consultant, former Executive Director of the International Treatment Preparedness Coalition and co-founder of the Center for Economic and Social Rights.

26. Ms. Macdonald discussed the impact of counter-terrorism policies, including sanction regimes, on the operation of humanitarian organizations, referring to the 2013 Study on the Impact of Donor Counter-Terrorism Measures on Principled Humanitarian Action commissioned by the Norwegian Refugee Council and the Office for the Coordination of Humanitarian Affairs. She noted that Member States were the architects of international law, and that the Geneva Conventions and a number of Security Council and General Assembly resolutions acknowledged the primacy and principles of humanitarian action. However, there was often a contradiction between those principles and the application of counter-terrorism measures, including sanctions. Some States prohibited support to anyone associated with terrorists, but it was beyond the mandate of humanitarian organizations to determine whether individuals were, for example, family members or neighbours of terrorists. Such organizations might also need to engage with terrorist organizations to ensure their own security. Another contradiction was that, in accordance with Security Council resolution 1612 (2005), the protection of children should be enhanced, but organizations that provided training on the non-recruitment of child soldiers might be criminally liable under "zero tolerance" counter-terrorism policies.

27. Ms. Macdonald further noted that unilateral coercive measures might prevent humanitarian organizations from making financial transfers to States where they work, citing the examples of the Islamic Republic of Iran, Somalia and the Sudan. Exemptions often took too long to obtain in circumstances of urgent humanitarian need, and banks were increasingly unwilling to take the risk of allowing any transfer to States targeted by coercive measures. That also affected the ability of individuals to transfer remittances, which often provided a vital lifeline for vulnerable populations.

28. In conclusion, Ms. Macdonald noted the need for a broad-based humanitarian exemption under sanctions regimes to allow humanitarian organizations to continue to function effectively on the ground, and narrower definitions of concepts such as "material support" to terrorists, so that they did not prevent humanitarian organizations from fulfilling their mandate to provide support to the population.

29. Mr. Halliday welcomed the focus of the discussions on accountability, noting that he could not recall the Security Council ever being held accountable for the consequences of its decisions under Chapter VII, Articles 41 and 42, of the Charter. He considered that it was unrealistic to expect States to respect basic principles in implementing unilateral coercive measures when the Security Council itself did not respect the purposes and principles set out in Articles 1 and 2 of the Charter when it imposed sanctions. Mr. Halliday therefore proposed a revised and binding Article 41 compatible with those purposes and principles, with time limitations, effective monitoring and rigid accountability provisions.

30. With regard to unilateral coercive measures, Mr. Halliday considered that there should be nothing less than complete cessation of them, as all such measures violated the Charter. However, as unilateral coercive measures would be hard to stop in practice, he proposed close monitoring by the Human Rights Council, with quarterly reporting to the General Assembly or a revitalized and operational International Court of Justice. Accountability could be ensured through devices such as suspension of United Nations membership, loss of General Assembly voting rights, payment of reparations and payment of compensation to individuals. Mr. Halliday suggested that positive rather than punitive intervention might, however, be more productive, with increased United Nations capability to anticipate bilateral problems, tensions and actions before coercive measures were begun, and early dispute resolution assistance made available to States involved in disputes. He stated that true accountability could be ensured only through a reformed, more democratic Security Council, with full global and North/South representation.

31. In conclusion, Mr. Halliday noted that few, if any, States appeared to win either when imposing or as a target of multilateral or unilateral coercive measures, and that non-violent recognition, support, cooperation, and commitment to the letter and spirit of the Charter might prove to be more rewarding.

32. Ms. Zaidi, participating by video message, examined the recent history of the use of sanctions, noting that prior to 1990, the Security Council had imposed sanctions only twice, against the former Rhodesia and South Africa, but between 1990 and 2000, they had become a favoured coercive measure as an alternative to military intervention and had been imposed 13 times. Drawing from her experience in assessing, analysing and critiquing the negative humanitarian impacts of various sanctions regimes, she stated that if sanctions were not designed with human rights principles in mind from the outset, subsequent attempts to mitigate their humanitarian effects would be minor and insignificant, amounting to a form of greenwashing that served to obscure the harmful policies behind the sanctions. She gave examples of the human toll of comprehensive trade sanctions in Iraq; the improvement of social conditions in the Islamic Republic of Iran under comprehensive unilateral sanctions which had then worsened following the imposition of multilateral sanctions; public pressure to implement "smart" sanctions to reduce negative humanitarian and human rights effects; and the broader effect of current targeted sanctions on the economy of the Russian Federation. She noted that targeted sanctions, by definition, had narrower impacts, and as such were easier for policy elites to circumvent and thus were less effective from the perspective of the States imposing them.

33. Ms. Zaidi concluded that sanctions were war by another means, analogous to siege and blockade. Damage to the national economy on which the population depended for health and welfare was used by States imposing unilateral coercive measures to force a change in government behaviour. She said that smart sanctions would always be preferable to

comprehensive sanctions in terms of humanitarian impact. However, even under smart sanctions as they were currently imposed, vulnerable populations paid the highest price, while policy elites were least affected. Humanitarian practitioners had the best access to research and data on the impact of sanctions. They should therefore advocate for a political and legal understanding that the rights and well-being of civilians and vulnerable populations could not be sacrificed because their governments were in conflict with powerful States or multilateral institutions. As human rights principles applied to all sanctions regimes, there should always be: (a) clear legal exemptions and expedited processes for humanitarian goods, including food, medicines, medical inputs and equipment and educational resources; (b) fast-tracking of licences for humanitarian goods, with streamlined financial and administrative procedures, especially for medicines for the chronically ill; (c) protection for whistle-blowers who report on the misuse of humanitarian funds; and (d) ongoing mechanisms to monitor and evaluate the humanitarian impact of sanctions.

34. Ms. Zaidi noted that war was a terrible, quintessentially human horror which should be avoided altogether or waged with great reluctance as a very last resort, and stated that it was long overdue for sanctions to be considered in the same light.

35. During the ensuing interactive dialogue, representatives of Qatar and the Hawa Society for Women took the floor. The speakers called for greater attention to fundamental human rights principles, and drew attention to the negative effects of sanctions on vulnerable groups.

36. Responding to comments, Ms. Macdonald gave the example of Somalia to illustrate the impact of sanctions on the civilian population, noting that the loss of US$ 1.3 million in remittances to support livelihoods was not being taken up by any donor. Further, she stated the necessity for humanitarian workers to be able to engage with all actors as required by their mission to deliver assistance, and the importance of their neutrality, whereas sanctions and counter-terrorism measures were essentially political. Mr. Halliday recalled the example of Iraq, where the banking sector had been crushed by sanctions. He urged Member States to give greater power to the Human Rights Council, which must monitor human rights violations associated with coercive measures.

VII. Presentation by the Human Rights Council Advisory Committee on its forthcoming research-based report on mechanisms to assess the negative impact of unilateral coercive measures on the enjoyment of human rights and to promote accountability

37. Jean Ziegler, a member of the Human Rights Council Advisory Committee, presented the Committee's work to prepare a research-based report on mechanisms to assess the negative impact of unilateral coercive measures on the enjoyment of human rights and to promote accountability, requested by the Human Rights Council in its resolution 24/14. In January 2014, the Committee had created a working group and online platform for that purpose, sent a questionnaire to the permanent missions in Geneva and other stakeholders, and selected case studies from Cuba, the Islamic Republic of Iran and Zimbabwe. The report was currently being prepared and would be submitted to the Human Rights Council for consideration at its twenty-eighth session. Mr. Ziegler expressed his disappointment that few States from the Western European and other States Group had submitted responses. He said that the initial responses received supported the view that sanctions caused violations of human rights and humanitarian law, and he proposed the creation of an international monitoring mechanism with the participation of international organizations, as well as a mechanism to provide compensation to victims.

VIII. Conclusions

38. **In summing up the discussions at the workshop, the Chair noted that there was a vast and complex web of unilateral coercive measures, which intersected with multilateral sanctions and those imposed by regional organizations. Some States that imposed unilateral coercive measures claimed to act in the name of the international community; in other instances Security Council sanctions were imposed in support of unilateral interests. The participants in the workshop had examined a wide range of impacts of coercive measures, from their impact on international humanitarian and human rights law, to their impact on the economy, on peace and security and on the social fabric of States. A number of panellists had questioned the purposes and effectiveness of unilateral coercive measures, whether imposed to react to prior violations by the targeted State, in response to terrorism, as an alternative to war or in the context of war. The Chair pointed to a need to redefine what was understood as the effectiveness of coercive measures in order to take human rights and humanitarian concerns into account.**

39. **The Chair summarized the discussions on ensuring accountability and humanitarian exceptions for unilateral coercive measures. She noted in particular the analysis of existing human rights mechanisms, and the call by some speakers for the creation of a special procedures mandate. She stressed the importance of public opinion and the need for populations to reflect on the accountability of their own Governments in States implementing unilateral coercive measures. In conclusion, she stated that it was necessary to move beyond tweaking sanctions to examine the place of sanctions in the current international setting. She noted deep-rooted problems and grievances within the international system, and the importance for the United Nations to give a voice to all members of the international community, in order to ensure multilateralism, mutual respect and the peaceful settlement of disputes.**

Annex

[English only]

List of participants

States Members of the Human Rights Council

Algeria, Argentina, Costa Rica, Cuba, Ethiopia, Germany, India, Indonesia, Pakistan, Russian Federation, South Africa, Venezuela (Bolivarian Republic of)

States Members of the United Nations

Albania, Angola, Belarus, Burundi, Cambodia, Colombia, Denmark, Egypt, Greece, Iran (Islamic Republic of), Jordan, Malaysia, Mali, Myanmar, Qatar, Serbia, Singapore, Spain, Sri Lanka, Sudan, Tunisia, Zimbabwe

Intergovernmental organizations

European Union, International Organization of la Francophonie, Non-Aligned Movement

Non-governmental organizations in consultative status with the Economic and Social Council

Action contre la faim, CIVICUS-World Alliance for Citizen Participation, Conectas Direitos Humanos, Conference of Non-Governmental Organizations in Consultative Relationship with the United Nations (CONGO), Congregation of Our Lady of Charity of the Good Shepherd, Geneva for Human Rights-Global Training, Hawa Society for Women, Indian Council of South America (CISA), International Institute for Peace, Justice and Human-Rights (IIPJHR), International Network for the Prevention of Elder Abuse, Norwegian Refugee Council, Organization for Defending Victims of Violence, Transparency International

Independent experts and panellists

Vera Gowland-Debbas, Emeritus Professor of International Law, Graduate Institute of International Development Studies; Denis Halliday, former United Nations Humanitarian Coordinator in Iraq; Susanne Kühn, Head of the Public Sector Integrity Programme, Transparency International; Ingrid MacDonald, Geneva Director, Norwegian Refugee Council; Obiora Okafor, Professor, Osgoode Hall Law School and member of the Human Rights Council Advisory Committee; Dursun Peksen, Assistant Professor of Political Science, University of Memphis; Antonio Tzanakopoulos, Associate Professor of Public International Law, University of Oxford; Mohamed Younis, Senior Analyst, Middle East and North Africa, Gallup; Sarah Zaidi, consultant, former Executive Director, International Treatment Preparedness Coalition and co-founder, Center for Economic and Social Rights (via video message); Haifa Zangana, novelist, artist and journalist; Alfred-Maurice de Zayas, Independent Expert on the promotion of a democratic and equitable international order; Jean Ziegler, member of the Human Rights Council Advisory Committee

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Human Rights Council
Twenty-seventh session
Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary of the Human Rights Council panel discussion on the importance of the promotion and protection of civil society space

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present summary report was prepared in accordance with Human Rights Council resolution 24/21, in which the Council decided to convene, at its twenty-fifth session, a panel discussion on the importance of the promotion and protection of civil society space, and invited the Office of the United Nations High Commissioner to liaise with States, relevant United Nations bodies and agencies, relevant special procedures, civil society and other stakeholders with a view to ensuring their participation in the panel discussion. The panel discussion was held on 11 March 2014.

The report contains a summary of the statements delivered by the Secretary-General and the Deputy High Commissioner for Human Rights, and contributions by the moderator and panellists. It summarizes the discussion in four parts: the importance of the promotion and protection of civil society space; the challenges that States face in their efforts to ensure space for civil society; experiences, lessons learned and good practices with regard to space for civil society; and strategies and steps that could be adopted to ensure a safe and enabling environment for civil society.

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I. Introduction

1. On 11 March 2014, at its twenty-fifth session, the Human Rights Council held a panel discussion on the importance of the promotion and protection of civil society space, pursuant to Council resolution 24/21.

2. Pursuant to the request of the Human Rights Council, the panel discussion aimed at, inter alia, contributing to the identification of challenges facing States in their efforts to ensure space for civil society and lessons learned, as well as good practices.

3. In its resolution 24/21, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to liaise with States, relevant United Nations bodies and agencies, relevant special procedures, civil society and other stakeholders, with a view to ensuring their participation in the panel discussion. The Office was also requested to prepare a summary, to be presented to the Council at its twenty-seventh session. The present summary was prepared pursuant to that request.

4. The panel discussion was chaired by the President of the Human Rights Council and moderated by the human rights lawyer and pro-democracy campaigner, Hina Jilani. The panel was addressed by the Secretary-General and opened by the Deputy United Nations High Commissioner for Human Rights. The panellists were a member of the Committee on the Rights of Persons with Disabilities and member of the Parliament of Turkey, Safak Pavey; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue; Deeyah Khan, a producer of films, music and art; and human rights defender and Honorary President of the Tunisian League for Human Rights, Mokhtar Trifi.

5. To render the Human Rights Council more accessible to persons with disabilities and to encourage their participation in the work of the Council as fully as possible, international sign language interpretation and captioning were provided and webcast. Physical accessibility was promoted by making facilities in the meeting room wheelchair-friendly. Braille printing was available on request.

II. Statements by the Secretary-General and the Deputy United Nations High Commissioner for Human Rights, and contributions by the moderator and panellists

A. Secretary-General

6. The Secretary-General, in his opening remarks delivered in a video-recorded message, emphasized the fact that a free and independent civil society constituted the bedrock of democratic and responsive governance. Civil society brought vital issues to the fore, helped to make the case for stronger protection of human rights, pushed for more equal societies and mobilized action to address violations and injustice. He stressed the fact that civil society was an indispensable partner of the United Nations.

7. The Secretary-General was concerned that, in campaigning to improve the lives of others, many individuals often risked their lives. Civil society actors must be able to do their work freely, independently, safe from fear, intimidation or retaliation. He counted on the full commitment of States and the international community, including the United Nations High Commissioner for Human Rights and the United Nations family, to engage in collective action to denounce reprisals, defend free voices and protect those targeted. In

addition, the Secretary-General stressed the need to advance the work for human rights, peace and development, and to expand the space for civil society to participate and contribute meaningfully.

8. The Secretary-General recalled that the panel's discussions were based on the premise that space for civil society was a reflection of an entire society's respect for human rights within its own borders and around the globe. Lastly, he urged the international community to seize the opportunity to strengthen the vital role of civil society.

B. Deputy United Nations High Commissioner for Human Rights

9. The Deputy United Nations High Commissioner for Human Rights noted that, at the national level, the extent to which people contributed to and monitored decisions that affected their lives was a fundamental indicator of the enjoyment of human rights. Arenas for public participation ranged from local groups to national and global forums, including the Human Rights Council. She recalled that the Charter of the United Nations began with "We the peoples", while the Universal Declaration of Human Rights guaranteed that "everyone has the right to take part in the Government of his country". The Deputy High Commissioner affirmed that it was in the interest of peace, security and economic and social development that individuals were empowered to mobilize and participate, make their voices heard, claim their rights, and build responsive, inclusive and accountable institutions in their communities, societies and countries. She emphasized the fact that an informed debate, political engagement and strong mechanisms for accountability of public officials should be created and underpinned by a robust legal framework grounded in international human rights law.

10. Although there were obstacles, the objective of widening and deepening democratic participation was always grounded in the involvement of volunteers, associations, non-governmental organizations and social movements, which fostered civic virtues and greater awareness of rights by teaching advocacy skills, shaping strategies, mobilizing claims and acting as a critical watchdog. The Deputy High Commissioner recalled that civil society could take different forms, such as groups of volunteers assisting new immigrants, activists raising environmental concerns, trade unionists calling for collective agreement, bloggers exposing corruption or a federation of non-governmental organizations campaigning for a new international human rights treaty. She stressed that all those actors played a fundamental role in helping people develop political consciousness and skills, and knowledge of their rights and duties.

11. The Deputy High Commissioner recalled that the Human Rights Council recognized the importance of civil society actors and their need to operate in an enabling environment in a series of resolutions, including resolutions that emphasized the important role of human rights defenders and a cross-regional resolution that provided the basis for the present panel.

12. The Deputy High Commissioner expressed her belief that a diverse, independent and vibrant civil society could only flourish with guarantees of a safe and enabling environment. She deplored the risks faced by many civil society actors around the world, including threats, intimidation, reprisals, prohibition from receiving funding, imprisonment for revealing corruption, bans on peaceful demonstrations, confiscation of computers, shutting down Internet access, and even killings. She called upon all actors to protect civil society from such practices.

13. The Deputy High Commissioner highlighted the fact that the endeavours by OHCHR to create space for the engagement of civil society in the promotion and protection of human rights had been one of its main achievements in the past 20 years, and would

continue to be among the Office's priorities in coming years. She drew attention to the fact that "widening the democratic space" was one of the six thematic strategies for OHCHR for 2014-2017, with a strong emphasis on the requirement of a safe and enabling environment for civil society, including human rights defenders.

C. Moderator of the panel discussion

14. In her introductory remarks, the moderator of the panel discussion, Hina Jilani, welcomed the concern shown by the Human Rights Council and its interest in expanding the space for civil society, as well as its recognition of the critical importance of the role that civil society played in the promotion and protection of human rights. Civil society was a critical actor in strengthening human rights and democracy. No notion of "international community" was complete without the recognition of civil society as an integral part. She emphasized the value of the work of civil society actors, often at great cost to their own personal freedom. She considered that, while there was greater recognition of the role of civil society worldwide, there was still a need to acknowledge that civil society benefited and strengthened States by channelling public voices and concerns to the attention of relevant authorities.

D. Member of the Committee on the Rights of Persons with Disabilities and Member of the Parliament of Turkey

15. Ms. Pavey referred to ancient Greece, where, to be considered a "citizen", an individual – only a man at that time – had an obligation to take part in political processes. In the modern age, civil society provided an avenue for people to engage in the affairs of their communities and countries without participating directly in politics. As a forum outside State control, civil society became an arena of empowerment for autonomy, voluntary unity, pluralism and social demands. It served to limit the powers of Governments and to hold them accountable. From women's rights, environmental issues, peacebuilding, disability rights, humanitarian aid through to constitutional reform, civil society had become a critical force in every area of societal challenge.

16. Ms. Pavey considered that, in its simplest definition, "civil society" consisted of "people doing things together that they could not achieve on their own as individuals". Civil society organizations did not aspire to have a share of political power. It was commendable that feminist movements, associations against racism and ecological movements remained part of civil society, while also having political significance in the messages they conveyed. She gave an example of an environmental activist, who would not wish to become Prime Minister, but who would seek to limit the power of the Prime Minister to cut down trees.

17. Ms. Pavey explained that civil society acted as a mechanism for societal balance and formed a "social opposition language" to government policies, without creating a political party. Therefore, interest in societal movements focusing on discrimination in areas such as gender, race, disability, ethnicity and sexual orientation had increased tremendously. She regretted that, in some societies, in particular those in transition or where there were internal conflicts, civil society was controlled or repressed through financial and legal pressures, or through the creation of "government-organized" non-governmental organizations, created with the sole intention of supporting the Government's policies in the public or international arena.

18. The panellist highlighted what she considered to be the most tragic aspect of the shrinking space of civil society, namely, the targeting of humanitarian aid workers by

different groups in conflict zones owing to the perception that they were "foreign agents". In her opinion, the space for health workers, both in providing services in crises and advocacy for the right to health, including for people with disabilities, was under constant threat. She gave an example when emergency medical workers were attacked by security forces for providing emergency care to individuals wounded while attempting to exercise their right to freedom of expression.

19. In Ms. Pavey's opinion, civil society had the most powerful impact on cultural transformation, which leads society in the evolution from pluralist to participatory democracy. She gave the example of Hrant Dink, editor-in-chief of the Armenian-Turkish bilingual newspaper *Agos*, which served as a civil society channel to give voice to the Armenian community in Turkey. This project, to which Ms. Pavey, a young woman with a disability, belonged, had contributed greatly to freedom of expression in the country. Furthermore, in 2013, when the Government of Turkey planned to open up protected areas and national parks for development projects, 121 environment and nature rights organizations came together under a joint platform to advocate systematically against the adoption of the draft law, which was subsequently withdrawn from Parliament.

20. Ms. Pavey pointed out that it was difficult for civil society to overcome cultural or political barriers in some societies, but when it was able to operate more freely, it delivered positive results in the fight against injustice and inequality and in combating racial and gender discrimination through peaceful methods. Civil society organizations often proved to be effective in working with Governments to remove barriers and discrimination. For example, LGBT communities advanced their cause purely through civil society movement while eschewing violent means.

E. Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

21. Like the Secretary-General, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression considered civil society to be a vital partner for the United Nations family in advancing human rights. International bodies and Governments alone could not achieve the fulfilment of human rights without the full participation of civil society. In his view, civil society was the fundamental element that guaranteed that human rights would be protected and expanded in the future. Identifying impunity as the biggest challenge to any democratic system, the Special Rapporteur stated that the rule of law with equal access to justice was a crucial element for civil society in all countries. Stressing the universality, equality, interrelatedness and interdependency of all human rights, he recognized that the exercise of some rights facilitated the achievement of other rights (for example, freedom of expression facilitated freedom of peaceful assembly and association), as well as democratic citizen participation and other fundamental freedoms. In his opinion, it was crucial that any democratic society guaranteed freedom of expression in its two dimensions: access to information, and expressing oneself, including through art, demonstrations and other forms.

22. The Special Rapporteur focused on six challenges facing civil society. The first was the universality of the Internet. He considered it important that everybody should have equal access to the Internet – an important communications instrument – in particular, for remote and rural populations. Failure to address this gap would deepen and widen the divide between the technologically privileged and economic elite and poorer sectors. Providing equal access to the Internet should be a priority for all States, even if this required the State to subsidize the service.

23. Secondly, the Special Rapporteur noted that the power of the Internet had been amply demonstrated during the Arab spring, and consequently a backlash was observed in many States, which imposed barriers to the use of the Internet and made communication riskier. Access to the Internet had become more limited, websites were blocked and hundreds of bloggers were imprisoned all over the world. Some States argued that restrictions on the use of the Internet stemmed from traditional values, religious or cultural identities; others claimed that limitations were justified by reasons of national security.

24. A third challenge noted by the Special Rapporteur was the increase in attacks against media workers and violence against journalists, including so-called "citizen journalists". It was crucial to stop attacks and sexual harassment against women journalists. These attacks took place not only in countries witnessing conflict, but also in countries at peace. He found this unacceptable and called for a response from the international community. Attacks against the press reflected on all parts of society because they undermined the right of everyone to have access to information, as without this people would be unable to make informed decisions or challenge public policies.

25. Fourthly, the Special Rapporteur pointed out that denying access to information held by public bodies undermined the work of civil society. He called for strengthening access to public information. He found it ironic that, while there were more laws adopted on access to information, there were also more limitations imposed under the pretext of national security. He considered that acts of elected or appointed public officials should be a public matter and subject to transparency not only on financial and budgetary elements, but also on the broader issue of public policy decision-making.

26. A fifth challenge was to ensure the right to freedom of peaceful assembly and association, which were limited in a number of ways. The Special Rapporteur noted that, increasingly, more steps and procedures were needed before an association could be formed. The opportunities for civil society to raise funds were also limited, in particular as there were often regulations relating to accepting funds from abroad. These factors reduced the space and opportunities for civil society to organize and participate because, as non-profit organizations, civil society organizations were unable to generate their own resources and depended on contributions.

27. Lastly, the Special Rapporteur noted with concern that some Governments adopted regulations and practices to impede peaceful protests. Peaceful demonstrations were sanctioned as criminal activities or as a threat to security, and such measures stifled freedom of expression in societies that did not have access to the media or technological forms of communication.

F. Film, music and arts producer

28. Ms. Khan spoke about the relevance of art to human rights and democracy. Art was a universal, human, basic and direct form of communication, with the capacity to make people feel and think. Art had many purposes in society, and could include an expression of beauty, hope, discomfort or something that tells a story. In her view, artistic expression could liberate people in a way that made exerting control over them more difficult.

29. Ms. Khan noted that thousands of artists around the world used their creativity in the service of social activism, and many artists had became the voice of the voiceless by exposing injustice, human rights abuses or corruption. In some countries, artists were targeted, harassed, threatened, tortured, imprisoned or killed. She recalled that, when Taliban movement came to power in Afghanistan, among the first things removed from public life were music and art. She highlighted the fact that a woman artist faced the same dangers as her male counterparts, as well as gender-specific challenges, in certain societies.

30. Artists did not enjoy the same protection and support globally as other groups, such as journalists. Very few individuals and organizations society worked to support artists in danger. Ms. Khan cited the example of Freemuse, an international organization advocating and defending freedom of expression for musicians and composers worldwide. She welcomed the report of the Special Rapporteur in the field of cultural rights,[1] and its focus on artists and the right to freedom of artistic expression and creation. On the ground, artists often found themselves isolated, with no solidarity and support.

31. Ms. Khan highlighted the fact that dictators used art for their own benefit and as a means of propaganda, and business corporations used art to influence the way people made their choices. Stressing that art was as necessary in democracy as a free press, she firmly held the view that artists working for the advancement of human rights and dignity should be supported by the international community because they played a vital and underestimated role in civil society. She concluded by saying that all talents and creativity were needed for the human family to overcome challenges and to achieve the world all would like to live in.

G. Human rights lawyer and Honorary President of the Tunisian League for Human Rights

32. Highlighting experiences of civil society actors in Tunisia, Mr. Trifi focused on the role of civil society during the transition period in the country. He stressed the fact that civil society played a fundamental role in building the new State by participating in the development of new laws and policies essential for human rights and democracy. Civil society organizations were consulted on the first initiatives during the transition, such as a decree on a general amnesty for prisoners of conscience and laws on accession to four international treaties (the International Convention on the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Rome Statute of the International Criminal Court).

33. Thre of the most important civil society organizations (the General Union of Tunisian Workers, the Tunisian League for Human Rights and the National Bar Association) had taken part in setting up essential democratic institutions that promulgated a new electoral code and adopted a new, liberal law on freedom of association, which, inter alia, included a provision on the possibility of State funding for non-governmental organizations, as well as funding from abroad. Several thousands of associations had been established in Tunisia since the adoption of the law in September 2011.

34. Mr. Trifi spoke about the role of civil society in the 2011 elections, which were fundamental for democracy, as they were the first democratic and transparent elections in Tunisia. For the first time, more than 10,000 civil society activists had been mobilized to monitor the elections of the Constituent Assembly, with the assistance of the international community, including support from OHCHR. The first task for the Constituent Assembly was to draft a new Constitution. As the majority of the Constituent Assembly members came from an Islamist party, there were fears that sharia law might be imposed and that the advancement of women's rights might be blocked, with the discourse focusing on "complementarity between women and men" rather than full equality. Once again, civil society, in particular women's organizations, had advocated in the public space for full

[1] A/HRC/23/34.

equality between women and men in the text of the new draft Constitution, which was adopted by an overwhelming majority of the Constituent Assembly in January 2014.

35. Acknowledging the essential role of civil society during different stages of the transition process in Tunisia, Mr. Trifi highlighted several remaining obstacles. Some associations, established in accordance with the new law, were suspected of fostering terrorism, and some politicians would like to see stricter control by the Government of the activities of non-governmental organizations and a ban on foreign funding. In Mr. Trifi's opinion, while there was a legitimate need to monitor the funds of such organizations, any attempt to restrict a legitimate space of civil society actors would be counterproductive. Another challenge for newly created non-governmental organizations was the lack of human and material resources and the need for training and capacity-building to increase their professionalism.

III. Summary of the discussion

36. During the plenary discussion, the following delegations took the floor: Pakistan (on behalf of the Organization of Islamic Cooperation), Ethiopia (on behalf of the Group of African States), India (on behalf of the Like-minded Group), the European Union, Yemen (on behalf of the Group of Arab States), Norway (on behalf of Nordic countries), Morocco, Algeria, China, the Czech Republic, Germany, Chile, Uruguay, Indonesia, Portugal, Poland, Tunisia, the Republic of Korea, Thailand, Japan, Colombia, Italy, Switzerland, Ireland, Angola and Hungary. The Joint United Nations Programme on HIV/AIDS (UNAIDS) also contributed to the discussion.

37. Also participating in the dialogue was the Human Rights Commission of Malaysia, as well as the following non-governmental organizations: the European Disability Forum; International Service for Human Rights in a joint statement with the Commonwealth Human Rights Initiative, the International Gay and Lesbian Human Rights Commission, Amnesty International, the World Organisation Against Torture and the East and Horn of Africa Human Rights Defenders Project; CIVICUS – World Alliance for Citizen Participation; the International Federation for Human Rights Leagues; and Save the Children International in a joint statement with World Vision International, Defence for Children International, Plan International and the International Catholic Child Bureau.

38. The following delegations were unable to deliver their statements owing to lack of time: Estonia, Slovenia, Belgium, Netherlands, France, the United States of America, Cuba, Kyrgyzstan, Australia, Austria, Slovakia, the Sudan, Burundi and the International Association for Religious Freedom, a non-governmental organization. The delegations' statements were posted on the extranet page of the Human Rights Council.

A. Importance of the promotion and protection of civil society space

39. Several delegations welcomed the first formal discussion in the Human Rights Council on civil society space as a human rights concern, and thanked the main sponsors of Council resolution 24/21 (Ireland, Chile, Tunisia, Japan and Sierra Leone), as well as OHCHR, for convening the panel discussion. Some participants stressed that the panel was an important step towards the recognition of the crucial role that an independent, diverse and pluralistic civil society played in the realization of human rights on the ground, as well as for the work of the Council. Some States appreciated the fact that the panellists represented the diversity of civil society and its work. They considered it fundamental to have a debate at the institutional level to assess options for strengthening civil society at the national, regional and international levels.

40. Most participants emphasized the crucial role that civil society played in advancing States' objectives of peace, human rights and development and in the promotion and protection of human rights at the local, national, regional and international levels. It was noted that a free and vibrant civil society contributed greatly to a healthy and stable society, and was a prerequisite for sustainable social and economic development. Civil society's role went beyond the promotion and protection of human rights to include advancing the purposes and principles of the United Nations. It was recalled that civil society played a major role in preventing human rights violations. Some delegates expressed appreciation for the support that civil society provided to government institutions in the process of the realization of economic, social and cultural rights. Being involved in advocacy, research, social mobilization and local-level development, civil society played a complementary role to government and provided a voice for poor and marginalized groups.

41. Many delegations recognized that dialogue with civil society could contribute to the identification of ongoing and future challenges. It played an indispensable role by channelling the opinions, concerns and suggestions of diverse actors into policymaking processes. Some representatives noted that a vibrant civil society was essential for constructive communication among cultures, faiths and civilizations. It was stressed that civil society represented a mechanism of checks and balances in any democratic State.

42. Some delegations recalled that the important role played by civil society was unanimously recognized at the World Conference on Human Rights in 1993, reaffirmed in many resolutions of the Commission on Human Rights and the Human Rights Council, underlined in many reports by special procedures mandate holders and codified in the institution-building package of the Human Rights Council (resolution 5/1). The Council benefited from the indispensable contribution of civil society. It was pointed out that civil society was also a space for children to express themselves, in conformity with the Convention on the Rights of the Child.

43. Delegations emphasized that it was imperative for States to create and maintain a safe and enabling environment for civil society actors in which they could operate and contribute to the promotion and protection of civil, political, economic, social and cultural rights. It was noted that the rights to freedom of expression, peaceful assembly and association, and of movement, as well as participation in public life, were all important for civil society. Some States emphasized that the protection of civil society was the foremost responsibility of every State. The protective role of the State was in conformity with its obligations under international human rights law. The empowerment and protection of civil society was essential for an inclusive, transparent and democratic society. Some delegations highlighted the responsibility of States in establishing regulatory frameworks to regulate funding for the work of civil society actors.

44. Some States remarked that, in performing their functions, civil society actors should work within the parameters of a national legal framework consistent with international human rights and humanitarian law obligations. Acting in compliance with domestic laws would mean that they would have full recourse to the protection afforded by such laws.

45. Some participants noted that civil society played a complementary role to that of national human rights institutions.

B. Challenges faced by States in their efforts to ensure space for civil society

46. Several delegations expressed concern about the shrinking space for civil society in some States as a result of the introduction of legal, administrative and other restrictions. In some countries, national legislation and other measures did not protect fully the rights and

freedoms important for civil society actors. It was noted that failure to ensure a safe and enabling environment for civil society to conduct its work undermined States' existing commitments and obligations under international human rights law, and weakened equality, accountability, responsiveness and the rule of law. In some cases, provisions relating to national security, public morals, defamation, funding and regulation of the Internet had led to the harassment, stigmatization and criminalization of civil society actors. It was stressed that some States imposed unnecessary obstacles to the establishment or financing of non-governmental organizations or the authorization of peaceful demonstrations. One of the obstacles highlighted was the lack of financial and human resources available to civil society, and the lack of broader awareness about the role of civil society could play. An example was provided about the lack of direct consultations between the Government and civil society actors in the universal periodic review process, which was a matter of concern.

47. Concerns were expressed by some delegations about the serious risks faced by human rights defenders as well as by members of their families. Particular concern about the risks faced by women defenders was highlighted. Journalists and media professionals who attempted to report demonstrations and police violence endured detention, imprisonment and forced dismissal. Forcible closure of newspapers was also a matter of concern. Particular concerns were expressed about the marginalization of groups, such as LGBT persons and organizations in several countries, as well as minority and religious organizations. Children experienced challenges in forming their own organizations, including difficulties in registration.

48. Some participants referred to the creation of "government-organized" non-governmental organizations created to give visible support to their Government in public and international forums, and noted that such organizations frequently filled the space intended for independent civil society actors. An example was provided of the challenges faced in the implementation of obligations under the Convention on the Rights of Persons with Disabilities relating to civil society, which included insufficient interaction between Government and independent civil society actors.

49. It was highlighted that, while the Internet contributed to freedom of opinion and expression and the work of civil society across the globe, restrictions on Internet freedom and the activities of civil society were of concern, as they threatened the fundamental elements of democracy, development and peace. Examples were provided of restrictive legislation, expansion of the executive authority's control over the Internet, and limitations to freedom of expression and information.

50. Some participants drew attention to differences and conflicts within civil society, as well as among interest groups and viewpoints. Donor-driven agendas in the operations of civil society actors were cautioned against. There were concerns that some civil society actors promoted intolerant views or opinions, and, while guaranteeing freedom of expression, States should be able to minimize their negative impact. Some noted the importance of accurate and verifiable information being provided by civil society in their endeavours to promote and protect human rights.

51. Some participants spoke about an alarming trend aimed at curtailing the voice of civil society in its endeavour to contribute to the work of the United Nations and its human rights bodies, including the Human Rights Council and its mechanisms, in particular, through reprisals against human rights defenders, activists or opposition politicians. These included threats to non-governmental organization accreditation, which sought to create a climate of fear and intimidation, undermining the credibility and the functioning of the United Nations system. In this context, the deferral of consideration by the General Assembly of resolution 24/24 adopted by the Council at its twenty-fourth session was noted with concern by some States.

C. Experiences, lessons learned and good practices with regard to space for civil society

52. Many delegations welcomed the opportunity to exchange lessons learned, practices and experiences in providing space for civil society. Some noted that it was not possible to develop policies, programmes or national strategies in the absence of dialogue with civil society because it was inseparable from the democratic processes.

53. Some States applauded the tremendous dynamism of civil society actors, including women who faced grave personal risks. Examples were provided of the role of women's rights activists in several countries in pursuing fair representation in political processes.

54. Some States appreciated the greater number of national civil society organizations established in their countries over a period of time.

55. Several States provided examples of the participation of civil society actors in the development of national policies on human rights, including national plans of action and legislation, as well as in contributions to State reports submitted to United Nations human rights mechanisms, such as the treaty bodies and the universal periodic review.

56. Many States had established mechanisms for institutionalized national dialogue and consultations with civil society. Through a coordination and information-sharing platform on human rights policies, these mechanisms brought together various stakeholders on a regular basis, and provided space for civil society actors to engage in public policy decisions in advancing the human rights agenda. Such institutional mechanisms helped strengthen a dialogue between government officials and civil society experts.

57. Some States reported on the establishment of mechanisms and subsidies for funding non-governmental organizations in their countries.

58. An example was provided of civil society serving as an indispensable partner in providing specific assistance to affected populations that the national government response could not tackle alone in the aftermath of a natural disaster.

59. As witnessed by UNAIDS, civil society organizations provided services to marginalized communities; for example, to persons living with and vulnerable to HIV. It was noted that civil society was essential to shape the political, financial, social and legal response to HIV around the world. In three meetings of the General Assembly on AIDS, all States had committed to secure the vital role of civil society in the AIDS response, and to provide an enabling social and legal environment. These commitments were, however, yet to be implemented by many States.

60. Examples were provided by non-governmental organizations working on the rights of the child on the involvement of children in the civic space through the establishment of mechanisms for children to engage in policymaking processes and other activities, such as monitoring service delivery to children.

61. One State delegation spoke about its experience in developing national policies and mechanisms for the protection human rights defenders, in partnership with OHCHR.

62. Some States had increased their efforts to promote civil society space in their international policy agenda and activities. Such efforts were commended by a number of non-governmental organizations. International reactions to restrictions on civil society space included diplomatic pressure, efforts to strengthen the international normative framework of the right to freedom of association and the creation of innovative forms of engagement, such as the European Endowment for Democracy.

63. Some States cautioned against interfering with the internal affairs of States or challenging judicial sovereignty under the pretext of protecting civil society space.

64. Delegations referred to the important work to promote rights and freedoms vital for the functioning of civil society conducted by the special procedures of the Human Rights Council, namely the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders. The Social Forum of the Human Rights Council was considered to be a space that sought to enhance dialogue between States and civil society in a constructive manner.

65. An example was provided of the large participation of persons with disabilities and their representative organizations in the negotiation of the Convention on the Rights of Persons with Disabilities, and reference was made to the role of civil society included in the text of the Convention.

66. It was emphasized that regional organizations played a significant role in promoting civil society space in their respective regions.

D. Strategies and steps that could be adopted to ensure a safe and enabling environment for civil society

67. It was stressed that the promotion and protection of civil society space did not envisage granting civil society new or additional rights, but rather ensured that it enjoyed the same rights to public freedoms to which everyone was entitled.

68. It was recognized that it was the primary responsibility of States, in accordance with their international human rights obligations, to promote and protect human rights, including rights that enabled civil society to operate, in particular fundamental freedoms, such as the freedoms of peaceful assembly, association, opinion and expression. This required the support of a robust legislative and administrative framework, fully compliant with international human rights law. Delegations reiterated a call made by the Special Rapporteur on the situation of human rights defenders in her most recent report to the Human Rights Council that Governments should take concrete steps to create a safe and enabling environment for human rights defenders to operate, free from hindrance and insecurity.[2] Some pointed to the need to create an enabling environment to encourage member-based and member-driven civil society groups that would promote the interests of the people they served and encourage sustainability of their activities.

69. Several delegations referred to the importance of the national legal framework. It was stressed that, while all individuals were subject to the sovereign laws of the relevant State, national legislation should be consistent with international human rights law to ensure that civil society can operate in a safe and enabling environment. It was suggested that ethical, religious or cultural values should not be used as a justification for putting in place national legislation that undermined the universality of human rights. Some delegations urged that a review be conducted of national legislation that criminalized non-governmental organizations on the basis of their activities or sources of funding. It was stressed that laws restricting freedom of peaceful assembly should be reviewed, and that States should prevent and sanction the excessive use of force when dispersing assemblies. There was a suggestion that laws that prohibit human rights advocacy relating to sexual orientation and gender identity should be repealed. Some delegations expressed the view

[2] See A/HRC/25/55.

that the domestic legal framework should ensure that the right to freedom of expression, peaceful assembly and association fully respected the rights of others and guaranteed the independence, accountability and transparency of civil society. The need to ensure that the legal framework was conducive to the establishment of children's organizations was also stressed.

70. Some participants emphasized that improved and inclusive consultation processes, as well as coordination with and partnerships between civil society actors and State institutions would facilitate the enhancement of international cooperation in the field of human rights and better serve the interests of society. States were urged to take appropriate measures to ensure that every member of civil society had an effective right and opportunity to participate in political and public affairs, as highlighted by the Human Rights Council in its resolution 24/8 on equal political participation. States were encouraged to engage in meaningful participatory processes in legislating and policymaking, and to consult with civil society at the outset of policy development. They were encouraged to ratify the Convention on the Rights of Persons with Disabilities, which included obligations relating to participation. It was recommended that sufficient, respectful, safe, regular and meaningful interaction between Government and civil society should be established at all phases of policymaking and implementation. Efforts to increase the representation of women with disabilities should be supported. It was also suggested that Governments should create an enabling environment for children to participate as equal actors in civil society, including through access to timely and child-friendly public information.

71. A recommendation was made that States should establish national mechanisms for the protection of human rights defenders and journalists.

72. Recognizing the important role played by development in the full realization and enjoyment of human rights, some delegations suggested that States needed to encourage civil society groups to increase their engagement in and contribution to the implementation of a national development agenda and other regional and international development goals, as well as combating intolerance, negative stereotyping and stigmatization, incitement to violence and violence against persons based on religion or belief.

73. It was suggested that civil society actors should use their space responsibly and be guided by the principles of democracy, good governance, transparency, credibility and accountability. Such an approach would increase public and government confidence in civil society, and would help States to better protect civil society, facilitate its work and establish partnerships. In addition, it was noted that non-governmental organizations should use their charitable and tax-exempt status responsibly.

74. States were called upon to refrain from and ensure adequate protection from any act of intimidation or reprisal against civil society actors, and to fulfil their duty to end impunity for any such acts by bringing perpetrators to justice and by providing an effective remedy for victims. The Human Rights Council and the United Nations as a whole were urged to lead by example in protecting civil society space and to ensure a stronger, practical response to reprisals.

75. Recalling resolution 1996/31 of the Economic and Social Council, which governs the relationship of the Human Rights Council with civil society, some delegations proposed that the efforts of the Council and the international community should be directed at assisting national authorities to strengthen their mechanisms of partnership with civil society, and that they find new ways to support civil society engagement by sharing best practices.

76. In a joint statement, several non-governmental organizations expressed concerns about the Committee of the Economic and Social Council on Non-Governmental

Organizations creating obstacles to civil society consultations at the United Nations. A State delegation suggested that rules and proceedings that govern the participation of civil society in the United Nations should be updated so that they could tackle the challenges posed by the participation of indigenous peoples in international forums.

77. Participants recommended that the Human Rights Council, through its special procedures mechanisms, should develop and adopt guiding principles on creating a safe and enabling environment for civil society.

78. A suggestion was made that the Human Rights Committee prioritize the development of general comments on articles 21 (the right of peaceful assembly) and 22 (the right to freedom of association) of the International Covenant on Civil and Political Rights.

79. States were encouraged to take advantage of the technical assistance available through the Office of the High Commissioner and other relevant international and regional institutions.

IV. Comments and responses by panellists and the moderator

80. Several delegations directed a number of questions to the panellists. Some were interested to learn more about good practices and recommendations on how States could ensure meaningful engagement and dialogue with civil society, improve the capacity of civil society to engage with government institutions, and support the checks-and-balances role of civil society. Delegations asked what more could be done at the local, national, regional, international and multilateral levels to provide space for civil society, improve States' engagement with civil society and raise awareness and support for the work of civil society, including those persons who did not join an organization, such as children or people living in extreme poverty. A question was asked about what the international community should do when national legislation contradicted international obligations.

81. Panellists were asked to provide examples of good practices in legislation or mechanisms at the national level to combat impunity regarding threats or attacks against human rights defenders. A question was asked about whether general legislation on freedom of expression was sufficient or whether special legislation to protect human rights defenders should be adopted by States. A delegation was interested to learn about concrete measures that could be taken by the international community to combat the climate of intimidation and censorship against journalists and media workers. Panellists were asked to address the relationship between a vibrant civil society and social stability. Some States were interested to learn about early warning signs regarding policies to narrow the space for civil society, and how the international community could contribute to counteract attempts aimed at limiting space for civil society. Participants were interested to know how non-governmental could increase their capacity to protect themselves. A question was asked about how States could support an early warning function of civil society in raising awareness of human rights violations. Another question was asked about whether non-governmental organizations participating in the sessions of the Human Rights Council needed a stronger legislative basis. The views of panellists were sought on the responsibility of the Council to act upon reprisals against defenders who engaged or attempted to engage with the Council or other United Nations organs and mechanisms.

82. Ms. Khan acknowledged the challenges in building societies that are fair, inclusive, just and open for all. In her opinion, freedom of expression was the cornerstone of a healthy, independent, open, pluralistic and inclusive civil society. She encouraged States to build on their statements made during the panel discussion on the importance of the right to

freedom of expression, and engage genuinely in the implementation of this right in their countries.

83. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression agreed that there was no question of creating special rights for civil society organizations, but rather ensuring that the rights to which everyone is entitled were afforded to civil society actors. He appreciated the comment that human rights were enjoyed by people of all ages. The Special Rapporteur saw no need for specific legislation or administrative measures for civil society organizations and how people associate because, in his view, these would limit legitimate, open and transparent activities for the defence of human rights. He agreed with the statements made that civil society actors should abide by the principles of the rule of law, transparency and accountability, but he recalled that the rule of law should apply equally to all, and that there was no need to create additional restrictions to those already outlined in national legislation compliant with international commitments. Responding to a question on the need for a specific national mechanism to protect human rights defenders and journalists, he noted good practices of effective, multi-stakeholder mechanisms established in several countries, and suggested that one concrete outcome of the panel discussion might be that States should establish such mechanisms.

84. Mr. Trifi underlined the fact that States elected to the Human Rights Council had a specific responsibility towards the protection of human rights, including the freedoms of expression, peaceful assembly and association. Speaking from his civil society background, he highlighted the need for capacity-building and training on human rights for civil society organizations. He also emphasized the need for funding, in particular, national public funding, but also foreign funding, which should be legally regulated. He stressed the important early warning function of the Special Rapporteur on the situation of human rights defenders, who could draw the Council's attention to worrying developments so that timely action could be taken.

85. Ms. Pavey appreciated the discussion on the strengthening of trust between the State and civil society. She recalled that there was space for civil society to work through the various United Nations human rights mechanisms, including the treaty bodies and the Human Rights Council and its mechanisms. She stressed that civil society should feel free from fear to engage with United Nations mechanisms, and channel their issues and concerns so that they reach international forums.

86. The moderator thanked the participants for their rich contributions and regretted that, owing to time limitations, it was not possible for the panel to respond to the numerous questions addressed to it. She reflected on the discussion about resources for civil society, and stated that foreign funding was a part of international cooperation; what a State could legitimately do in order to promote and protect human rights should certainly be legitimate for civil society to benefit from. She expressed the hope that this dialogue could lead to more opportunities and forms of engagement through which Governments could overcome insecurities that led them to establish measures that restricted civil society space. She also hoped that civil society organizations could safeguard their independence and encourage their Governments to be more responsive to their voices.

87. The President of the Human Rights Council thanked the moderator, the panellists and the participants for their contributions to the panel discussion.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary report on the panel discussion on preventing and eliminating child, early and forced marriage

Report of the Office of the United Nations High Commissioner for Human Rights

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I. Introduction

1. In its resolution 24/23, the Human Rights Council decided to convene, at its twenty-sixth session, a panel discussion on preventing and eliminating child, early and forced marriage, with a particular focus on challenges, achievements, best practices and implementation gaps, and requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a summary report on the panel discussion. The present report was prepared pursuant to that request.

2. Also in resolution 24/23, the Human Rights Council requested OHCHR to prepare a report on preventing and eliminating child, early and forced marriage, with a particular focus on challenges, achievements, best practices and implementation gaps, to be presented to the Council at its twenty-sixth session.[1]

3. The panel discussion, which was held on 23 June 2014, was moderated by the Permanent Representative of Sierra Leone to the United Nations at Geneva, Ambassador Yvette Stevens, and was opened by the Deputy High Commissioner for Human Rights. The panellists were a member of the Committee on the Elimination of Discrimination against Women and Chairperson of the Committee's working group on harmful practices, Violetta Neubauer; the Special Rapporteur on the rights of women in Africa of the African Commission on Human and Peoples' Rights, Soyata Maiga; the Deputy Executive Director of the United Nations Population Fund (UNFPA), Kate Gilmore; Programme Coordinator for Advocacy and Research (CREA), Pooja Badarinath; and the Programme Area Manager for Upper Egypt, Plan International, Dr. Ayman Sadek. The discussions were structured in three segments.

II. Summary of discussions

4. In her opening remarks, the Deputy High Commissioner for Human Rights stated that child, early and forced marriage violated human rights and affected girls and women disproportionately. The origins of this practice were rooted in unequal gender status and power relations, which resulted in the perpetual subjugation of girls and women. She highlighted the fact that discriminatory cultural practices based on stereotypical views of women's roles and sexuality, as well as poverty and insecurity, were structural causes. She also pointed out numerous human rights violations resulting from child, early and forced marriage, including those relating to employment, education and other opportunities for girls and young women, as well as exposure to a variety of forms of violence. Moreover, it was associated with a range of poor health outcomes, including early and frequent pregnancy and forced continuation of pregnancy, all of which were closely linked to high rates of death for both young mothers and their infant children.

5. The Deputy High Commissioner recalled the legal obligations of States with regard to marriage under international human rights law, including the requirements that both parties must be at least 18 years of age and give free and full consent to the union. She further pointed to some of the lessons learned from ongoing efforts, including the importance of participation, education and awareness-raising, as documented by OHCHR in its report. Welcoming the attention devoted by the Human Rights Council to this important issue, she encouraged continued examination of this human rights violation by the Council and also in discussions on the post-2015 development agenda.

[1] See A/HRC/26/22.

6. Violetta Neubauer observed that important normative standards and principles with regard to child, early and forced marriage were set out in the Convention on the Elimination of All Forms of Discrimination against Women (and in the jurisprudence of the relevant Committee. She distinguished the different terms of "child", "early" and "forced marriage", and explained that they could not be used interchangeably owing to the undefined nature of the term "early marriage". The Committee increasingly used the terms "child" and "forced marriage", the former to describe the marriage of persons below the age of 18. The Committee considered child marriage also a forced marriage, although not the only one.

7. Kate Gilmore, speaking also on behalf of the World Health Organization, the United Nations Children's Fund and UNFPA, stated that the human rights implications of child and forced marriage were significant and grave. She referred to the 14.2 million girls who are married every year, the majority of whom were poor, had little or no access to education, and lived in rural and remote areas. One in nine of these girls was married before the age of 15, including girls as young as six years. She explained the consequences of such a marriage, including dropping out from school and multiple pregnancies. With regard to pregnancy, she drew attention to the fact that as many as 90 per cent of adolescent pregnancies occurred within marriage; this was the group most at risk of maternal mortality and morbidity. It was also the group with the least access to information and services that could ensure their sexual and reproductive health and rights. In addition to being a violation in its own right, child, early and forced marriage also violated the right to life, liberty and security, and the rights to information, freedom from discrimination, and freedom from cruel, inhuman and degrading treatment or punishment, including sexual violence.

8. Pooja Badarinath stressed that the impact of child and forced marriage on the sexual and reproductive health and rights of young girls and women was known; indeed, as many as 70 per cent of girls forced to marry experienced sexual violence. To date, however, more than 100 countries still had not explicitly criminalized rape within marriage. She drew a connection between child, early and forced marriage and the issue of consent, explaining that child marriage could not be addressed in isolation from issues of autonomy, choice and equity. In considering consent, she stressed the importance of the evolving capacity of young people and warned against narrow approaches based solely on the age of marriage. In particular, she highlighted the need for a contextual understanding of issues, such as the role of parental and spousal consent in exercising sexual agency and related sexual and reproductive health decisions. Furthermore, any assessment of harm should be made within the framework of a continuum that began prior to marriage and continued thereafter. She also highlighted the need to address cultural issues, such as those relating to women's and girls' sexuality.

9. Soyata Maiga described the ways in which the African Commission on Human and Peoples' Rights had addressed child, early and forced marriage. The issue was regularly invoked in the Commission's communications and interactive dialogue with Member States. Ms. Maiga referred to a variety of recommendations made by the Commission to States, including removing all discriminatory legislation; harmonizing national legislation with regional standards, including the obligation to raise the minimum age of marriage to 18 years; awareness-raising to combat gender stereotypes; ensuring access to education for girls, including sexual and reproductive health education in school curricula; enforcing birth and marriage registration; and educating religious and community leaders on the harm caused by child, early and forced marriage. She particularly emphasized the need for a comprehensive approach; legislative measures needed to be complemented by education programmes and other supportive measures. Lastly, Ms. Maiga announced that an all-African campaign had been launched in 29 May 2014 to mobilize everyone to fight against early and forced marriage.

10. Ayman Sadek stated that Plan International was committed to combating child, early and forced marriage not only as a barrier to development but also as a serious violation of a wide range of fundamental human rights. He referred to the work conducted by Plan International on the issue as multifaceted, involving three levels of change within the framework of the global "Because I am a Girl" campaign: firstly, working with institutions and Governments to achieve change in laws and polices; secondly, working with families and communities to change social structures and to challenge harmful social norms; and thirdly, working with boys and girls to empower them to bring about change. He referred to a good practice, in Egypt, where Plan used an empowerment training programme, the Arab Women Speak-Out (AWSO) methodology, to help women to overcome social, economic, educational and political obstacles by providing realistic role models that inspire action and increase self-esteem. Dr. Sadek also emphasized the importance of involving men and boys, as well as traditional and religious leaders, in efforts to end child marriage.

11. Before giving the floor to States, non-governmental organizations and national human rights institutions, the Chairperson acknowledged the presence of the African Union Goodwill Ambassador for Ending Child Marriage, Nyaradzayi Gumbonzvanda. In her intervention, the Goodwill Ambassador stated that child, early and forced marriage was the nexus between household poverty, violence against women, abuse of cultures, traditions and religion and gender inequalities. She urged the Human Rights Council to endorse an annual resolution on the issue and Member States to address its underlying causes, including the feminization of household poverty. She also recommended that Member States take steps to harmonize the age of marriage with the legal age of majority, facilitate civil registration of births and marriages, ensure greater investment in education for girls, and promote young women's leadership and empowerment. She also called for political, financial and technical investment and community resources to end child, early and forced marriage. She concluded that, with collective efforts, child marriage could be ended within a single generation.

12. In their interventions, States agreed that child, early and forced marriage was correlated with poverty, including a cycle of poverty for future generations. It undermined the well-being of women and young girls and was an obstacle to the enjoyment of other human rights. Speakers expressed concern about the long-standing and wide-ranging consequences of child, early and forced marriage, such as violence, and pointed out its impact on health, education and employment of women and girls. It was necessary to address the root causes of child, early and forced marriage, such as cultural norms, discrimination against women and girls, negative stereotypes and gender inequality, which allowed it to persist.

13. There was also agreement that child marriage was a serious violation of human rights, a harmful practice and a barrier to development. The need for comprehensive and coordinated approaches and leadership to translate States' commitment into concrete and sustained actions to end the practice was emphasized. Non-governmental organizations recalled that, if the international community was to end child, early and forced marriage in one generation, there was a need for sustainable programmes, owned and supported by key stakeholders in communities and countries.

14. Several speakers stressed the need for the Human Rights Council to continue to work on this serious human rights violation and to monitor the measures that States were taking to eliminate it. They also stressed the importance of ensuring that child, early and forced marriage was included in the post-2015 development agenda.

15. The speakers asked panellists several questions, including on good practices and challenges in addressing child, early and forced marriage; how to ensure that the issue would remain on the post-2015 development agenda; the tools required to scale up good

practices; and how to maximise the impact and added value of efforts to address child, early and forced marriage.

16. Addressing some of the issues raised during the discussion, Ms. Maiga attributed the persistence of the practice and some of the challenges in addressing it to the weak legal status of women and children within the family and the community and the lack of implementation of existing legislation, as well as the existence of multiple sources of law in several countries. Initiatives had been undertaken, such as those by the African Union and the Pretoria Human Rights Centre, which looked at root causes, existing legislation and regulations, culminating in plans of action and awareness-raising campaigns. She called for more resources and for educational programmes, awareness-raising and mobilization, and for sharing cross-regional experiences with the African Union and the Economic Community of West African States. She also recommended that joint efforts be made to ensure that child, early and forced marriage remained on the post-2015 development agenda.

17. Ayman Sadek, responding to the question concerning successful practices, drew attention to the role of awareness raising campaigns among girls and their communities, and provided an example from Egypt in which a 14 year old girl, with the support of her family, was able to avoid getting married and went on to become one of the positive models for girls in her village. In Bangladesh, children's groups working together with local authorities had organized visits and discussions in order to educate families and communities about the risks of child, early and forced marriage, which resulted in some areas being declared "Child Marriage-Free Zones". Dr. Sadek linked child, early and forced marriage with other harmful traditional practices, such as female genital mutilation, and with the drop-out rate of girls from schools. He emphasized the importance of the participation of children and young girls themselves, as well as of men and boys, which was crucial to ensure sustainable change.

18. Pooja Badarinath provided examples of grass-roots efforts in which girls were asked about their aspirations, noting that education was high on the list. For girls, particularly in the context of education, separate toilets and adequate sanitary facilities were important. Evidence showed that girls who had received sex education had been empowered to negotiate marrying at an older age, which delayed sexual activity, and to follow safer sexual practices. She requested all States to consider criminalizing marital rape in their countries, and also to promote the inclusion of comprehensive sexual and reproductive rights in education.

19. Violetta Neubauer stated that comprehensive strategies, tailored to specific country and local contexts, were needed to address child, early and forced marriage. She referred to recommendations made by the Committee on the Elimination of Discrimination against Women according to which marriage exceptions for persons below the age of 18 – but no lower than 16 – could only be authorized by tribunals and only with the full and free consent of the girls involved. Marriages contracted by coercion should be declared null and void, and the difficult situation of girls after marriage had to be taken into consideration. She expressed the hope that the joint recommendation/general comment of the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child on the elimination of harmful practices would be adopted by the end of 2014.

20. Kate Gilmore emphasized the importance of political will as well as of an environment where parents and communities appreciate the harmful consequences of child marriage for their girls. She particularly noted the importance of greater attention to adolescents, ensuring their access to information and services on sexual and reproductive health, and access to education. She also expressed appreciation for the leadership of the Human Rights Council on the issue. She cautioned against false separations between human

rights, peace and development, and recommended that human rights should be at the heart of the post-2015 development agenda.

III. Concluding remarks

21. **The panel agreed that further action was necessary to tackle the problem of child, early and forced marriage from a human rights perspective, and the OHCHR report contained important recommendations in this regard. Through the discussions, many good practices had been shared, providing an important insight into ways to address child, early and forced marriage successfully.**

22. **There was convergence on the need to adopt comprehensive approaches to ensure the participation of girls, and communities. Such approaches had to address the root causes of child, early and forced marriage, including poverty and gender inequality. The need to ensure the access of girls to education and services, including information and services on sexual and reproductive health, was also a recurring theme of the panel.**

23. **The panel also agreed that ensuring child, early and forced marriage features in the post-2015 development agenda is critical. It was stressed that the Council needs to remain actively engaged in this issue.**